

AMENDED IN SENATE MAY 5, 2014  
AMENDED IN SENATE MARCH 28, 2014

**SENATE BILL**

**No. 1414**

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**Introduced by Senator Wolk**  
(*Coauthor: Assembly Member Williams*)

February 21, 2014

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An act to amend Sections 380 and 454.5 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1414, as amended, Wolk. Electricity: resources adequacy requirements.

(1) The Public Utilities Act requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities in accordance with specified objectives. The act requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements to provide reliable electric service. The act requires the commission to determine the most efficient and equitable means for achieving prescribed objectives.

This bill would include maximizing the ~~economic dispatch of time-variant electrical demand reductions~~ *cost-effective use of demand response* as an objective for the resource adequacy requirements referenced above. The bill would additionally require each load-serving entity to maintain either electrical demand reductions or physical generating capacity adequate to meet its load requirements. The bill would require the commission to determine the most efficient and equitable means to ensure ~~that the electrical demand reductions are deployed and economically dispatched.~~ *inclusion of demand response*

*that is reliable and cost effective in achieving environmental or demand reduction goals or grid reliability.*

(2) The act requires each electrical corporation to file with the commission a proposed procurement plan with specified information, including, among other things, a procurement process under which the electric corporation may request bids for procurement-related services, a showing that the procurement plan will achieve, among other objectives, the creation or maintenance of a diversified procurement portfolio, and the electric corporation's risk management policy, strategy, and practices.

This bill would require the proposed procurement plan to include a competitive procurement process that would also allow the electric corporation to request bids for ~~demandside-reduction~~ *response* services. The bill would require that the plan's diversified procurement portfolio include ~~time-variant demand reductions to minimize purchase of on-peak generation resources.~~ *demand response that is reliable and cost effective in achieving environmental goals and electrical grid reliability.* ~~The bill would also require the electrical corporation's risk management policy, strategy, and practices, as specified in the procurement plan, to include specific measures to reflect time-variant wholesale procurement costs in retail electrical rates.~~

(3) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

This bill would be part of the act and an order or other action of the commission would be required to implement the bill. Because a violation of this bill or an order or other action of the commission implementing those provisions would be a crime, and because the bill would make certain violations by a load-serving entity a crime, this bill would thereby impose a state-mandated local program by creating new crimes and by expanding the definition of existing crimes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 380 of the Public Utilities Code is  
2 amended to read:

3 380. (a) The commission, in consultation with the Independent  
4 System Operator, shall establish resource adequacy requirements  
5 for all load-serving entities.

6 (b) In establishing resource adequacy requirements, the  
7 commission shall achieve all of the following objectives:

8 (1) Facilitate development of new generating capacity and  
9 retention of existing generating capacity that is economic and  
10 needed.

11 (2) Equitably allocate the cost of generating capacity and prevent  
12 shifting of costs between customer classes.

13 (3) Minimize enforcement requirements and costs.

14 (4) Maximize the ability of community choice aggregators to  
15 determine the generation resources used to serve their customers.

16 (5) Maximize the ~~economic dispatch of time-variant electrical~~  
17 ~~demand reductions~~; *cost-effective use of demand response.*

18 (c) Each load-serving entity shall maintain physical generating  
19 capacity or electrical demand reductions adequate to meet its load  
20 requirements, including, but not limited to, peak demand and  
21 planning and operating reserves. The generating capacity or  
22 electrical demand reductions shall be deliverable to locations and  
23 at times as may be necessary to maintain electric service system  
24 reliability and local area reliability.

25 (d) Each load-serving entity shall, at a minimum, meet the most  
26 recent minimum planning reserve and reliability criteria approved  
27 by the Board of Trustees of the Western Systems Coordinating  
28 Council or the Western Electricity Coordinating Council.

29 (e) The commission shall implement and enforce the resource  
30 adequacy requirements established in accordance with this section  
31 in a nondiscriminatory manner. Each load-serving entity shall be  
32 subject to the same requirements for resource adequacy and the  
33 renewables portfolio standard program that are applicable to  
34 electrical corporations pursuant to this section, or otherwise  
35 required by law, or by order or decision of the commission. The  
36 commission shall exercise its enforcement powers to ensure  
37 compliance by all load-serving entities.

1 (f) The commission shall require sufficient information,  
2 including, but not limited to, anticipated load, actual load, and  
3 measures undertaken by a load-serving entity to ensure resource  
4 adequacy, to be reported to enable the commission to determine  
5 compliance with the resource adequacy requirements established  
6 by the commission.

7 (g) An electrical corporation's costs of meeting resource  
8 adequacy requirements, including, but not limited to, the costs  
9 associated with system reliability and local area reliability, that  
10 are determined to be reasonable by the commission, or are  
11 otherwise recoverable under a procurement plan approved by the  
12 commission pursuant to Section 454.5, shall be fully recoverable  
13 from those customers on whose behalf the costs are incurred, as  
14 determined by the commission, at the time the commitment to  
15 incur the cost is made, on a fully nonbypassable basis, as  
16 determined by the commission. The commission shall exclude any  
17 amounts authorized to be recovered pursuant to Section 366.2  
18 when authorizing the amount of costs to be recovered from  
19 customers of a community choice aggregator or from customers  
20 that purchase electricity through a direct transaction pursuant to  
21 this subdivision.

22 (h) The commission shall determine and authorize the most  
23 efficient and equitable means for achieving all of the following:

- 24 (1) Meeting the objectives of this section.
- 25 (2) Ensuring that investment is made in new generating capacity.
- 26 (3) Ensuring that existing generating capacity that is economic  
27 is retained.
- 28 (4) Ensuring that the cost of generating capacity is allocated  
29 equitably.
- 30 (5) Ensuring that community choice aggregators can determine  
31 the generation resources used to serve their customers.
- 32 ~~(6) Ensuring that electrical demand reductions are deployed and~~  
33 ~~economically dispatched.~~
- 34 (6) *Ensuring inclusion of demand response that is reliable and*  
35 *cost effective in achieving environmental or demand reduction*  
36 *goals or grid reliability.*

37 (i) In making the determination pursuant to subdivision (h), the  
38 commission may consider a centralized resource adequacy  
39 mechanism among other options.

1 (j) For purposes of this section, “load-serving entity” means an  
2 electrical corporation, electric service provider, or community  
3 choice aggregator. “Load-serving entity” does not include any of  
4 the following:

5 (1) A local publicly owned electric utility.

6 (2) The State Water Resources Development System commonly  
7 known as the State Water Project.

8 (3) Customer generation located on the customer’s site or  
9 providing electric service through arrangements authorized by  
10 Section 218, if the customer generation, or the load it serves, meets  
11 one of the following criteria:

12 (A) It takes standby service from the electrical corporation on  
13 a commission-approved rate schedule that provides for adequate  
14 backup planning and operating reserves for the standby customer  
15 class.

16 (B) It is not physically interconnected to the ~~electric~~ *electrical*  
17 transmission or distribution grid, so that, if the customer generation  
18 fails, backup electricity is not supplied from the ~~electricity~~  
19 *electrical* grid.

20 (C) There is physical assurance that the load served by the  
21 customer generation will be curtailed concurrently and  
22 commensurately with an outage of the customer generation.

23 SEC. 2. Section 454.5 of the Public Utilities Code is amended  
24 to read:

25 454.5. (a) The commission shall specify the allocation of  
26 electricity, including quantity, characteristics, and duration of  
27 electricity delivery, that the Department of Water Resources shall  
28 provide under its power purchase agreements to the customers of  
29 each electrical corporation, which shall be reflected in the electrical  
30 corporation’s proposed procurement plan. Each electrical  
31 corporation shall file a proposed procurement plan with the  
32 commission not later than 60 days after the commission specifies  
33 the allocation of electricity. The proposed procurement plan shall  
34 specify the date that the electrical corporation intends to resume  
35 procurement of electricity for its retail customers, consistent with  
36 its obligation to serve. After the commission’s adoption of a  
37 procurement plan, the commission shall allow not less than 60  
38 days before the electrical corporation resumes procurement  
39 pursuant to this section.

- 1 (b) An electrical corporation's proposed procurement plan shall  
2 include, but not be limited to, all of the following:
- 3 (1) An assessment of the price risk associated with the electrical  
4 corporation's portfolio, including any utility-retained generation,  
5 existing power purchase and exchange contracts, and proposed  
6 contracts or purchases under which an electrical corporation will  
7 procure electricity, electricity demand reductions, and  
8 electricity-related products and the remaining open position to be  
9 served by spot market transactions.
- 10 (2) A definition of each electricity product, electricity-related  
11 product, and procurement related financial product, including  
12 support and justification for the product type and amount to be  
13 procured under the plan.
- 14 (3) The duration of the plan.
- 15 (4) The duration, timing, and range of quantities of each product  
16 to be procured.
- 17 (5) A competitive procurement process under which the  
18 electrical corporation may request bids for procurement-related  
19 services and demand ~~reduction~~ *response* services, including the  
20 format and criteria of that procurement process.
- 21 (6) An incentive mechanism, if any incentive mechanism is  
22 proposed, including the type of transactions to be covered by that  
23 mechanism, their respective procurement benchmarks, and other  
24 parameters needed to determine the sharing of risks and benefits.
- 25 (7) The upfront standards and criteria by which the acceptability  
26 and eligibility for rate recovery of a proposed procurement  
27 transaction will be known by the electrical corporation prior to  
28 execution of the transaction. This shall include an expedited  
29 approval process for the commission's review of proposed contracts  
30 and subsequent approval or rejection thereof. The electrical  
31 corporation shall propose alternative procurement choices in the  
32 event a contract is rejected.
- 33 (8) Procedures for updating the procurement plan.
- 34 (9) A showing that the procurement plan will achieve the  
35 following:
- 36 (A) The electrical corporation, in order to fulfill its unmet  
37 resource needs, shall procure resources from eligible renewable  
38 energy resources in an amount sufficient to meet its procurement  
39 requirements pursuant to the California Renewables Portfolio

1 Standard Program (Article 16 (commencing with Section 399.11)  
2 of Chapter 2.3).

3 (B) The electrical corporation shall create or maintain a  
4 diversified procurement portfolio consisting of both short-term  
5 and long-term electricity and electricity-related and demand  
6 reduction products, including ~~time-variant demand reductions to~~  
7 ~~minimize purchase of on-peak generation resources.~~ *demand*  
8 *response that is reliable and cost effective in achieving*  
9 *environmental goals and electrical grid reliability.*

10 (C) The electrical corporation shall first meet its unmet resource  
11 needs through all available energy efficiency and demand reduction  
12 resources that are cost effective, reliable, and feasible.

13 (10) The electrical corporation's risk management policy,  
14 strategy, and practices, including specific measures of price  
15 stability ~~and specific measures to reflect time-variant wholesale~~  
16 ~~procurement costs in retail electrical rates.~~

17 (11) A plan to achieve appropriate increases in diversity of  
18 ownership and diversity of fuel supply of nonutility electrical  
19 generation.

20 (12) A mechanism for recovery of reasonable administrative  
21 costs related to procurement in the generation component of rates.

22 (c) The commission shall review and accept, modify, or reject  
23 each electrical corporation's procurement plan. The commission's  
24 review shall consider each electrical corporation's individual  
25 procurement situation, and shall give strong consideration to that  
26 situation in determining which one or more of the features set forth  
27 in this subdivision shall apply to that electrical corporation. A  
28 procurement plan approved by the commission shall contain one  
29 or more of the following features, provided that the commission  
30 may not approve a feature or mechanism for an electrical  
31 corporation if it finds that the feature or mechanism would impair  
32 the restoration of an electrical corporation's creditworthiness or  
33 would lead to a deterioration of an electrical corporation's  
34 creditworthiness:

35 (1) A competitive procurement process under which the  
36 electrical corporation may request bids for procurement-related  
37 services. The commission shall specify the format of that  
38 procurement process, as well as criteria to ensure that the auction  
39 process is open and adequately subscribed. Any purchases made

1 in compliance with the commission-authorized process shall be  
2 recovered in the generation component of rates.

3 (2) An incentive mechanism that establishes a procurement  
4 benchmark or benchmarks and authorizes the electrical corporation  
5 to procure from the market, subject to comparing the electrical  
6 corporation's performance to the commission-authorized  
7 benchmark or benchmarks. The incentive mechanism shall be  
8 clear, achievable, and contain quantifiable objectives and standards.  
9 The incentive mechanism shall contain balanced risk and reward  
10 incentives that limit the risk and reward of an electrical corporation.

11 (3) Upfront achievable standards and criteria by which the  
12 acceptability and eligibility for rate recovery of a proposed  
13 procurement transaction will be known by the electrical corporation  
14 prior to the execution of the bilateral contract for the transaction.  
15 The commission shall provide for expedited review and either  
16 approve or reject the individual contracts submitted by the electrical  
17 corporation to ensure compliance with its procurement plan. To  
18 the extent the commission rejects a proposed contract pursuant to  
19 this criteria, the commission shall designate alternative procurement  
20 choices obtained in the procurement plan that will be recoverable  
21 for ratemaking purposes.

22 (d) A procurement plan approved by the commission shall  
23 accomplish each of the following objectives:

24 (1) Enable the electrical corporation to fulfill its obligation to  
25 serve its customers at just and reasonable rates.

26 (2) Eliminate the need for after-the-fact reasonableness reviews  
27 of an electrical corporation's actions in compliance with an  
28 approved procurement plan, including resulting electricity  
29 procurement contracts, practices, and related expenses. However,  
30 the commission may establish a regulatory process to verify and  
31 ensure that each contract was administered in accordance with the  
32 terms of the contract, and contract disputes that may arise are  
33 reasonably resolved.

34 (3) Ensure timely recovery of prospective procurement costs  
35 incurred pursuant to an approved procurement plan. The  
36 commission shall establish rates based on forecasts of procurement  
37 costs adopted by the commission, actual procurement costs  
38 incurred, or combination thereof, as determined by the commission.  
39 The commission shall establish power procurement balancing  
40 accounts to track the differences between recorded revenues and

1 costs incurred pursuant to an approved procurement plan. The  
2 commission shall review the power procurement balancing  
3 accounts, not less than semiannually, and shall adjust rates or order  
4 refunds, as necessary, to promptly amortize a balancing account,  
5 according to a schedule determined by the commission. Until  
6 January 1, 2006, the commission shall ensure that any  
7 overcollection or undercollection in the power procurement  
8 balancing account does not exceed 5 percent of the electrical  
9 corporation's actual recorded generation revenues for the prior  
10 calendar year excluding revenues collected for the Department of  
11 Water Resources. The commission shall determine the schedule  
12 for amortizing the overcollection or undercollection in the  
13 balancing account to ensure that the 5 percent threshold is not  
14 exceeded. After January 1, 2006, this adjustment shall occur when  
15 deemed appropriate by the commission consistent with the  
16 objectives of this section.

17 (4) Moderate the price risk associated with serving its retail  
18 customers, including the price risk embedded in its long-term  
19 supply contracts, by authorizing an electrical corporation to enter  
20 into financial and other electricity-related product contracts.

21 (5) Provide for just and reasonable rates, with an appropriate  
22 balancing of price stability and price level in the electrical  
23 corporation's procurement plan.

24 (e) The commission shall provide for the periodic review and  
25 prospective modification of an electrical corporation's procurement  
26 plan.

27 (f) The commission may engage an independent consultant or  
28 advisory service to evaluate risk management and strategy. The  
29 reasonable costs of any consultant or advisory service is a  
30 reimbursable expense and eligible for funding pursuant to Section  
31 631.

32 (g) The commission shall adopt appropriate procedures to ensure  
33 the confidentiality of any market sensitive information submitted  
34 in an electrical corporation's proposed procurement plan or  
35 resulting from or related to its approved procurement plan,  
36 including, but not limited to, proposed or executed power purchase  
37 agreements, data request responses, or consultant reports, or any  
38 combination, provided that the Office of Ratepayer Advocates and  
39 other consumer groups that are nonmarket participants shall be

1 provided access to this information under confidentiality  
2 procedures authorized by the commission.

3 (h) Nothing in this section alters, modifies, or amends the  
4 commission's oversight of affiliate transactions under its rules and  
5 decisions or the commission's existing authority to investigate and  
6 penalize an electrical corporation's alleged fraudulent activities,  
7 or to disallow costs incurred as a result of gross incompetence,  
8 fraud, abuse, or similar grounds. Nothing in this section expands,  
9 modifies, or limits the State Energy Resources Conservation and  
10 Development Commission's existing authority and responsibilities  
11 as set forth in Sections 25216, 25216.5, and 25323 of the Public  
12 Resources Code.

13 (i) An electrical corporation that serves less than 500,000 electric  
14 retail customers within the state may file with the commission a  
15 request for exemption from this section, which the commission  
16 shall grant upon a showing of good cause.

17 (j) (1) Prior to its approval pursuant to Section 851 of any  
18 divestiture of generation assets owned by an electrical corporation  
19 on or after the date of enactment of the act adding this section, the  
20 commission shall determine the impact of the proposed divestiture  
21 on the electrical corporation's procurement rates and shall approve  
22 a divestiture only to the extent it finds, taking into account the  
23 effect of the divestiture on procurement rates, that the divestiture  
24 is in the public interest and will result in net ratepayer benefits.

25 (2) Any electrical corporation's procurement necessitated as a  
26 result of the divestiture of generation assets on or after the effective  
27 date of the act adding this subdivision shall be subject to the  
28 mechanisms and procedures set forth in this section only if its  
29 actual cost is less than the recent historical cost of the divested  
30 generation assets.

31 (3) Notwithstanding paragraph (2), the commission may deem  
32 proposed procurement eligible to use the procedures in this section  
33 upon its approval of asset divestiture pursuant to Section 851.

34 SEC. 3. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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