

AMENDED IN SENATE AUGUST 17, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1144

Introduced by Assembly Member Rendon

February 27, 2015

An act to amend Section 399.16 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1144, as amended, Rendon. California Renewables Portfolio Standard Program: ~~unbundled~~ renewable energy credits.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The existing definition of an electrical corporation excludes from that definition a corporation or person employing landfill gas technology or digester gas technology for the generation of electricity for (1) its own use or the use of not more than 2 of its tenants located on the real property on which the electricity is generated, (2) the use of or sale to not more than 2 other corporations or persons solely for use on the real property on which the electricity is generated, or (3) the sale or transmission to an electrical corporation or state or local public agency, if the sale or transmission of the electricity service to a retail customer is provided through the transmission system of the existing local publicly owned electric utility or electrical corporation of that retail customer.

The California Renewables Portfolio Standard Program requires the Public Utilities Commission to establish a renewables portfolio standard requiring all retail sellers, as defined, to procure a minimum quantity

of electricity products from eligible renewable energy resources, as defined, at specified percentages of the total kilowatthours sold to their retail end-customers during specified compliance periods. The program additionally requires each local publicly owned electric utility, as defined, to procure a minimum quantity of electricity products from eligible renewable energy resources to achieve the targets established by the program. The program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as the portfolio content requirements.

Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. This tariff requirement is known as the renewable feed-in tariff program. The program additionally requires the commission, by June 1, 2013, to direct the electrical corporations to collectively procure at least 250 megawatts of cumulative rated generating capacity from developers of bioenergy projects that commence operation on or after June 1, 2013. Pursuant to this requirement, the commission has established the small-scale bioenergy feed-in tariff program.

This bill would provide that ~~unbundled~~ renewable energy credits may be used to meet the first category of the portfolio content requirements if (1) the credits are earned by electricity that is generated by an entity that, if it were a person or corporation, would be excluded from the definition of an electrical corporation by operation of the exclusions for a corporation or person employing landfill gas technology or digester gas technology, (2) the entity employing the landfill gas technology or digester gas technology has a first point of interconnection with a California balancing authority, a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or ~~are~~ *is* scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source, ~~and~~ (3) where the electricity generated that earned the credit is used at a wastewater treatment facility that is owned by a public ~~entity and~~ entity, (4) *the generating capability, as specified, of the wastewater treatment facility that earned the renewable*

energy credit is first put into service on or after January 1, 2016, and (5) the wastewater treatment facility does not participate in the small-scale bioenergy feed-in tariff program. The bill would prohibit a public entity, selling renewable energy that is eligible to meet the first category of the portfolio content requirements pursuant to the bill's provisions, from making any marketing or advertising claims regarding the renewable attributes of the electricity that earned the renewable energy credit. The bill would require that the electricity generated that earned the renewable energy credit that is sold by the public entity be added to the total retail sales of the retail seller or local publicly owned electric utility purchasing the renewable energy credit for purposes of determining their renewables portfolio standard procurement requirements.

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

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

1 SECTION 1. Section 399.16 of the Public Utilities Code is
2 amended to read:
3 399.16. (a) Various electricity products from eligible renewable
4 energy resources located within the WECC transmission network
5 service area shall be eligible to comply with the renewables
6 portfolio standard procurement requirements in Section 399.15.
7 These electricity products may be differentiated by their impacts
8 on the operation of the grid in supplying electricity, as well as,
9 meeting the requirements of this article.
10 (b) Consistent with the goals of procuring the least-cost and
11 best-fit electricity products from eligible renewable energy
12 resources that meet project viability principles adopted by the
13 commission pursuant to paragraph (4) of subdivision (a) of Section
14 399.13 and that provide the benefits set forth in Section 399.11, a
15 balanced portfolio of eligible renewable energy resources shall be
16 procured consisting of the following portfolio content categories:
17 (1) Eligible renewable energy resource electricity products that
18 meet any of the following criteria:
19 (A) Have a first point of interconnection with a California
20 balancing authority, have a first point of interconnection with
21 distribution facilities used to serve end users within a California
22 balancing authority area, or are scheduled from the eligible

1 renewable energy resource into a California balancing authority
2 without substituting electricity from another source. The use of
3 another source to provide real-time ancillary services required to
4 maintain an hourly or subhourly import schedule into a California
5 balancing authority shall be permitted, but only the fraction of the
6 schedule actually generated by the eligible renewable energy
7 resource shall count toward this portfolio content category.

8 (B) Have an agreement to dynamically transfer electricity to a
9 California balancing authority.

10 (C) ~~Unbundled renewable~~ *Renewable* energy credits that are
11 earned by electricity that is generated by an entity that, if it were
12 a person or corporation, would be excluded from the definition of
13 an electrical corporation by operation of subdivision (c) or (d) of
14 Section 218, ~~that meets the criteria of subparagraph (A), and where~~
15 ~~the electricity generated that earned the credit is used at a~~
16 ~~wastewater treatment facility that is owned by a public entity and~~
17 ~~first put into service on or after January 1, 2016. consistent with~~
18 ~~the following requirements:~~

19 (i) *The generating facility earning the renewable energy credit*
20 *meets the criteria of subparagraph (A).*

21 (ii) *The electricity generated that earned the renewable energy*
22 *credit is used at a wastewater treatment facility that is owned by*
23 *a public entity.*

24 (iii) *The generating capability of the wastewater treatment*
25 *facility that earned the renewable energy credit is first put into*
26 *service on or after January 1, 2016. For these purposes,*
27 *“generating capability” includes new or additional generation of*
28 *electricity at a wastewater treatment facility that is the result of*
29 *capital investment or operational changes made to the facility on*
30 *or after January 1, 2016, that result in incremental increases in*
31 *generation at the facility, as well as repowered wastewater*
32 *facilities.*

33 (iv) *The wastewater treatment facility does not participate in*
34 *the small-scale bioenergy feed-in tariff program established by*
35 *the commission pursuant to Section 399.20.*

36 (2) Firmed and shaped eligible renewable energy resource
37 electricity products providing incremental electricity and scheduled
38 into a California balancing authority.

39 (3) Eligible renewable energy resource electricity products, or
40 any fraction of the electricity generated, including unbundled

1 renewable energy credits, that do not qualify under the criteria of
2 paragraph (1) or (2).

3 (c) In order to achieve a balanced portfolio, all retail sellers
4 shall meet the following requirements for all procurement credited
5 toward each compliance period:

6 (1) Not less than 50 percent for the compliance period ending
7 December 31, 2013, 65 percent for the compliance period ending
8 December 31, 2016, and 75 percent thereafter of the eligible
9 renewable energy resource electricity products associated with
10 contracts executed after June 1, 2010, shall meet the product
11 content requirements of paragraph (1) of subdivision (b).

12 (2) Not more than 25 percent for the compliance period ending
13 December 31, 2013, 15 percent for the compliance period ending
14 December 31, 2016, and 10 percent thereafter of the eligible
15 renewable energy resource electricity products associated with
16 contracts executed after June 1, 2010, shall meet the product
17 content requirements of paragraph (3) of subdivision (b).

18 (3) Any renewable energy resources contracts executed on or
19 after June 1, 2010, not subject to the limitations of paragraph (1)
20 or (2), shall meet the product content requirements of paragraph
21 (2) of subdivision (b).

22 (4) For purposes of electric service providers only, the
23 restrictions in this subdivision on crediting eligible renewable
24 energy resource electricity products to each compliance period
25 shall apply to contracts executed after January 13, 2011.

26 (d) Any contract or ownership agreement originally executed
27 prior to June 1, 2010, shall count in full toward the procurement
28 requirements established pursuant to this article, if all of the
29 following conditions are met:

30 (1) The renewable energy resource was eligible under the rules
31 in place as of the date when the contract was executed.

32 (2) For an electrical corporation, the contract has been approved
33 by the commission, even if that approval occurs after June 1, 2010.

34 (3) Any contract amendments or modifications occurring after
35 June 1, 2010, do not increase the nameplate capacity or expected
36 quantities of annual generation, or substitute a different renewable
37 energy resource. The duration of the contract may be extended if
38 the original contract specified a procurement commitment of 15
39 or more years.

(e) A retail seller may apply to the commission for a reduction of a procurement content requirement of subdivision (c). The commission may reduce a procurement content requirement of subdivision (c) to the extent the retail seller demonstrates that it cannot comply with that subdivision because of conditions beyond the control of the retail seller as provided in paragraph (5) of subdivision (b) of Section 399.15. The commission shall not, under any circumstance, reduce the obligation specified in paragraph (1) of subdivision (c) below 65 percent for any compliance obligation after December 31, 2016.

(f) (1) A public entity selling renewable energy credits that are eligible for treatment pursuant to subparagraph (C) of paragraph (1) of subdivision (b) shall not make any marketing or advertising claims regarding the renewable attributes of the electricity that earned the renewable energy credit. All renewable attributes of the electricity that earned the renewable energy credit are transferred to the purchaser of the renewable energy credit.

(2) For purposes of calculating the renewables portfolio standard procurement obligations for a retail seller pursuant to Section 399.15, and for a local publicly owned electric utility pursuant to Section 399.30, the electricity generated that earned the renewable energy credit that is eligible for treatment pursuant to subparagraph (C) of paragraph (1) of subdivision (b) and is sold by the public entity shall be added to the total retail sales of the retail seller or local publicly owned electric utility that purchases the renewable energy credit.