

ASSEMBLY BILL

No. 2454

Introduced by Assembly Member Williams

February 19, 2016

An act to amend Sections 454.5 and 454.52 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2454, as introduced, Williams. Energy: procurement plans.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act requires the commission to review and accept, modify, or reject a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

This bill would recharacterize the term "demand reduction" as "demand response," as specified, for purposes of this provision. The bill would require the electrical corporation in determining the availability of cost-effective, reliable, and feasible demand response resources, to consider the findings of a specified study due to the commission in 2016, and to consider both load-modifying and supply-side demand response resources.

Under existing law, to the extent that additional procurement is authorized for an electrical corporation, as specified, the commission is required to ensure that the costs are allocated in a fair and equitable

manner to all customers, that there is no cost-shifting among customers of load-serving entities, and that community choice aggregators may self-provide renewable integration resources.

This bill would also require the commission to demonstrate to the Legislature, as specified, that the electrical corporation met its unmet needs through all available energy efficiency and demand response resources that were cost effective, reliable, and feasible.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

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 454.5 of the Public Utilities Code is
 2 amended to read:
 3 454.5. (a) The commission shall specify the allocation of
 4 electricity, including quantity, characteristics, and duration of
 5 electricity delivery, that the Department of Water Resources shall
 6 provide under its power purchase agreements to the customers of
 7 each electrical corporation, which shall be reflected in the electrical
 8 corporation’s proposed procurement plan. Each electrical
 9 corporation shall file a proposed procurement plan with the
 10 commission not later than 60 days after the commission specifies
 11 the allocation of electricity. The proposed procurement plan shall
 12 specify the date that the electrical corporation intends to resume
 13 procurement of electricity for its retail customers, consistent with
 14 its obligation to serve. After the commission’s adoption of a
 15 procurement plan, the commission shall allow not less than 60

1 days before the electrical corporation resumes procurement
2 pursuant to this section.

3 (b) An electrical corporation's proposed procurement plan
4 *authorized pursuant to either this section or Section 454.52* shall
5 include, but not be limited to, all of the following:

6 (1) An assessment of the price risk associated with the electrical
7 corporation's portfolio, including any utility-retained generation,
8 existing power purchase and exchange contracts, and proposed
9 contracts or purchases under which an electrical corporation will
10 procure electricity, electricity demand ~~reductions~~, *responses*, and
11 electricity-related products and the remaining open position to be
12 served by spot market transactions.

13 (2) A definition of each electricity product, electricity-related
14 product, and procurement related financial product, including
15 support and justification for the product type and amount to be
16 procured under the plan.

17 (3) The duration of the plan.

18 (4) The duration, timing, and range of quantities of each product
19 to be procured.

20 (5) A competitive procurement process under which the
21 electrical corporation may request bids for procurement-related
22 services, including the format and criteria of that procurement
23 process.

24 (6) An incentive mechanism, if any incentive mechanism is
25 proposed, including the type of transactions to be covered by that
26 mechanism, their respective procurement benchmarks, and other
27 parameters needed to determine the sharing of risks and benefits.

28 (7) The upfront standards and criteria by which the acceptability
29 and eligibility for rate recovery of a proposed procurement
30 transaction will be known by the electrical corporation prior to
31 execution of the transaction. This shall include an expedited
32 approval process for the commission's review of proposed contracts
33 and subsequent approval or rejection thereof. The electrical
34 corporation shall propose alternative procurement choices in the
35 event a contract is rejected.

36 (8) Procedures for updating the procurement plan.

37 (9) A showing that the procurement plan will achieve the
38 following:

39 (A) The electrical corporation, in order to fulfill its unmet
40 resource needs, shall procure resources from eligible renewable

1 energy resources in an amount sufficient to meet its procurement
2 requirements pursuant to the California Renewables Portfolio
3 Standard Program (Article 16 (commencing with Section 399.11)
4 of Chapter 2.3).

5 (B) The electrical corporation shall create or maintain a
6 diversified procurement portfolio consisting of both short-term
7 and long-term electricity and electricity-related and demand
8 ~~reduction~~ *response* products.

9 (C) The electrical corporation shall first meet its unmet resource
10 needs through all available energy efficiency and demand-~~reduction~~
11 *response* resources that are cost effective, reliable, and feasible.
12 *In determining the availability of cost- effective, reliable, and*
13 *feasible demand response resources, the electrical corporation*
14 *shall consider the findings of the study of technical, economic, and*
15 *achievable demand response potential that is due to the commission*
16 *in 2016, and shall consider both load-modifying and supply-side*
17 *demand response resources.*

18 (10) The electrical corporation’s risk management policy,
19 strategy, and practices, including specific measures of price
20 stability.

21 (11) A plan to achieve appropriate increases in diversity of
22 ownership and diversity of fuel supply of nonutility electrical
23 generation.

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

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

39 (1) A competitive procurement process under which the
40 electrical corporation may request bids for procurement-related

1 services. The commission shall specify the format of that
2 procurement process, as well as criteria to ensure that the auction
3 process is open and adequately subscribed. Any purchases made
4 in compliance with the commission-authorized process shall be
5 recovered in the generation component of rates.

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

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

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

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

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

37 (3) Ensure timely recovery of prospective procurement costs
38 incurred pursuant to an approved procurement plan. The
39 commission shall establish rates based on forecasts of procurement
40 costs adopted by the commission, actual procurement costs

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

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

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

27 (e) The commission shall provide for the periodic review and
28 prospective modification of an electrical corporation's procurement
29 plan.

30 (f) The commission may engage an independent consultant or
31 advisory service to evaluate risk management and strategy. The
32 reasonable costs of any consultant or advisory service is a
33 reimbursable expense and eligible for funding pursuant to Section
34 631.

35 (g) The commission shall adopt appropriate procedures to ensure
36 the confidentiality of any market sensitive information submitted
37 in an electrical corporation's proposed procurement plan or
38 resulting from or related to its approved procurement plan,
39 including, but not limited to, proposed or executed power purchase
40 agreements, data request responses, or consultant reports, or any

1 combination, provided that the Office of Ratepayer Advocates and
2 other consumer groups that are nonmarket participants shall be
3 provided access to this information under confidentiality
4 procedures authorized by the commission.

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

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

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

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

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

36 (k) The commission shall direct electrical corporations to include
37 in their proposed procurement plans the integration costs described
38 and determined pursuant to clause (v) of subparagraph (A) of
39 paragraph (4) of subdivision (a) of Section 399.13.

1 SEC. 2. Section 454.52 of the Public Utilities Code is amended
 2 to read:

3 454.52. (a) (1) Commencing in 2017, and to be updated
 4 regularly thereafter, the commission shall adopt a process for each
 5 load-serving entity, as defined in Section 380, to file an integrated
 6 resource plan, and a schedule for periodic updates to the plan, to
 7 ensure that load-serving entities do the following:

8 (A) Meet the greenhouse gas emissions reduction targets
 9 established by the State Air Resources Board, in coordination with
 10 the commission and the Energy Commission, for the electricity
 11 sector and each load-serving entity that reflect the electricity
 12 sector’s percentage in achieving the economywide greenhouse gas
 13 emissions reductions of 40 percent from 1990 levels by 2030.

14 (B) Procure at least 50 percent eligible renewable energy
 15 resources by December 31, 2030, consistent with Article 16
 16 (commencing with Section 399.11) of Chapter 2.3.

17 (C) Enable each electrical corporation to fulfill its obligation to
 18 serve its customers at just and reasonable rates.

19 (D) Minimize impacts on ratepayers’ bills.

20 (E) Ensure system and local reliability.

21 (F) Strengthen the diversity, sustainability, and resilience of the
 22 bulk transmission and distribution systems, and local communities.

23 (G) Enhance distribution systems and demand-side energy
 24 management.

25 (H) Minimize localized air pollutants and other greenhouse gas
 26 emissions, with early priority on disadvantaged communities
 27 identified pursuant to Section 39711 of the Health and Safety Code.

28 (I) *Meet the energy efficiency and demand response targets*
 29 *established by the commission in concert with the Energy*
 30 *Commission pursuant to Section 454.56 and Section 25310 of the*
 31 *Public Resources Code.*

32 (2) (A) The commission may authorize all source procurement
 33 for electrical corporations that includes various resource types
 34 including demand-side resources, ~~supply-side~~ *supply-side* resources,
 35 and *demand-response* resources that may be *categorized as* either
 36 ~~demand-side resources or supply-side resources,~~ *load modifying*
 37 *or supply side*, taking into account the differing electrical
 38 corporations’ geographic service areas, to ensure that each
 39 load-serving entity meets the goals set forth in paragraph (1).

1 (B) The commission may approve procurement of resource
2 types that will reduce overall greenhouse gas emissions from the
3 electricity sector and meet the other goals specified in paragraph
4 (1), but due to the nature of the technology or fuel source may not
5 compete favorably in price against other resources over the time
6 period of the integrated resource plan.

7 (b) (1) Each load-serving entity shall prepare and file an
8 integrated resource plan consistent with paragraph (2) of
9 subdivision (a) on a time schedule directed by the commission and
10 subject to commission review.

11 (2) Each electrical corporation's plan shall follow the provisions
12 of Section 454.5.

13 (3) The plan of a community choice aggregator shall be
14 submitted to its governing board for approval and provided to the
15 commission for certification, consistent with paragraph (5) of
16 subdivision (a) of Section 366.2, and shall achieve the following:

17 (A) Economic, reliability, environmental, security, and other
18 benefits and performance characteristics that are consistent with
19 the goals set forth in paragraph (1) of subdivision (a).

20 (B) A diversified procurement portfolio consisting of both
21 short-term and long-term electricity and electricity-related and
22 demand ~~reduction~~ *response* products.

23 (C) The resource adequacy requirements established pursuant
24 to Section 380.

25 (4) The plan of an electric service provider shall achieve the
26 goals set forth in paragraph (1) of subdivision (a) through a
27 diversified portfolio consisting of both short-term and long-term
28 electricity, electricity-related, and demand ~~reduction~~ *response*
29 products.

30 (c) To the extent that additional procurement is authorized for
31 the electrical corporation in the integrated resource plan or the
32 procurement process authorized pursuant to Section 454.5, the
33 commission shall ~~ensure~~ *demonstrate to the Legislature, in a report*
34 *submitted pursuant to Section 9795 of the Government Code not*
35 *more than 60 days after the commission issues a final decision*
36 *approving new capacity additions in excess of 500,000 watts, that*
37 *the prioritized procurement of energy efficiency and demand*
38 *response resources required by subparagraph (C) of paragraph*
39 *(9) of subdivision (b) of Section 454.5 is achieved, that the costs*
40 *are allocated in a fair and equitable manner to all customers*

1 consistent with 454.51, that there is no cost-shifting among
2 customers of load-serving entities, and that community choice
3 aggregators may self-provide renewable integration resources
4 consistent with Section 454.51.

5 (d) In order to eliminate redundancy and increase efficiency,
6 the process adopted pursuant to subdivision (a) shall incorporate,
7 and not duplicate, any other planning processes of the commission.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.