

AMENDED IN SENATE AUGUST 16, 2016
AMENDED IN SENATE AUGUST 2, 2016
AMENDED IN ASSEMBLY MAY 31, 2016
AMENDED IN ASSEMBLY MAY 4, 2016
AMENDED IN ASSEMBLY APRIL 26, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2454

Introduced by Assembly Member Williams

February 19, 2016

An act to amend Section 454.5 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2454, as amended, 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 requirements 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 require the electrical corporation, in determining the availability of cost-effective, reliable, and feasible demand reduction resources, to consider the findings of the Demand Response Potential Study required by a specific order of the commission, as specified. The bill would require the commission, prior to approving a contract for any new ~~or repowered~~ gas-fired ~~generation resources, generating unit,~~ to require the electrical corporation to demonstrate compliance with ~~above requirement regarding meeting its unmet needs.~~ *its approved procurement plan.*

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.

This bill would incorporate changes to Section 454.5 of the Public Utilities Code proposed by both this bill and AB 1937, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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

1 the allocation of electricity. The proposed procurement plan shall
2 specify the date that the electrical corporation intends to resume
3 procurement of electricity for its retail customers, consistent with
4 its obligation to serve. After the commission's adoption of a
5 procurement plan, the commission shall allow not less than 60
6 days before the electrical corporation resumes procurement
7 pursuant to this section.

8 (b) An electrical corporation's proposed procurement plan shall
9 include, but not be limited to, all of the following:

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

17 (2) A definition of each electricity product, electricity-related
18 product, and procurement related financial product, including
19 support and justification for the product type and amount to be
20 procured under the plan.

21 (3) The duration of the plan.

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

24 (5) A competitive procurement process under which the
25 electrical corporation may request bids for procurement-related
26 services, including the format and criteria of that procurement
27 process.

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

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

40 (8) Procedures for updating the procurement plan.

1 (9) A showing that the procurement plan will achieve the
2 following:

3 (A) The electrical corporation, in order to fulfill its unmet
4 resource needs, shall procure resources from eligible renewable
5 energy resources in an amount sufficient to meet its procurement
6 requirements pursuant to the California Renewables Portfolio
7 Standard Program (Article 16 (commencing with Section 399.11)
8 of Chapter 2.3).

9 (B) The electrical corporation shall create or maintain a
10 diversified procurement portfolio consisting of both short-term
11 and long-term electricity and electricity-related and demand
12 reduction products.

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

16 (ii) In determining the availability of cost-effective, reliable,
17 and feasible demand reduction resources, the commission shall
18 consider the findings regarding technically and economically
19 achievable demand reduction in the Demand Response Potential
20 Study required pursuant to Commission Order D.14-12-024, to
21 the extent those findings are not superseded by other demand
22 reduction studies conducted by academic institutions or government
23 agencies, and to the extent that any demand reduction is consistent
24 with commission policy.

25 ~~(iii) Prior to approving a contract for any new or repowered~~
26 ~~gas-fired generation resource, the commission shall require the~~
27 ~~electrical corporation to demonstrate compliance with clause (i).~~

28 (10) The electrical corporation’s risk management policy,
29 strategy, and practices, including specific measures of price
30 stability.

31 (11) A plan to achieve appropriate increases in diversity of
32 ownership and diversity of fuel supply of nonutility electrical
33 generation.

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

36 (c) The commission shall review and accept, modify, or reject
37 each electrical corporation’s procurement plan and any amendments
38 or updates to the plan. The commission shall ensure that the plan
39 contains the elements required pursuant to this section, including
40 the elements described in subparagraph ~~(D)~~ (C) of paragraph (9)

1 of subdivision (b). The commission's review shall consider each
2 electrical corporation's individual procurement situation, and shall
3 give strong consideration to that situation in determining which
4 one or more of the features set forth in this subdivision shall apply
5 to that electrical corporation. A procurement plan approved by the
6 commission shall contain one or more of the following features,
7 provided that the commission may not approve a feature or
8 mechanism for an electrical corporation if it finds that the feature
9 or mechanism would impair the restoration of an electrical
10 corporation's creditworthiness or would lead to a deterioration of
11 an electrical corporation's creditworthiness:

12 (1) A competitive procurement process under which the
13 electrical corporation may request bids for procurement-related
14 services. The commission shall specify the format of that
15 procurement process, as well as criteria to ensure that the auction
16 process is open and adequately subscribed. Any purchases made
17 in compliance with the commission-authorized process shall be
18 recovered in the generation component of rates.

19 (2) An incentive mechanism that establishes a procurement
20 benchmark or benchmarks and authorizes the electrical corporation
21 to procure from the market, subject to comparing the electrical
22 corporation's performance to the commission-authorized
23 benchmark or benchmarks. The incentive mechanism shall be
24 clear, achievable, and contain quantifiable objectives and standards.
25 The incentive mechanism shall contain balanced risk and reward
26 incentives that limit the risk and reward of an electrical corporation.

27 (3) Upfront achievable standards and criteria by which the
28 acceptability and eligibility for rate recovery of a proposed
29 procurement transaction will be known by the electrical corporation
30 prior to the execution of the bilateral contract for the transaction.
31 The commission shall provide for expedited review and either
32 approve or reject the individual contracts submitted by the electrical
33 corporation to ensure compliance with its procurement plan. To
34 the extent the commission rejects a proposed contract pursuant to
35 this criteria, the commission shall designate alternative procurement
36 choices obtained in the procurement plan that will be recoverable
37 for ratemaking purposes.

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

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

3 (2) Eliminate the need for after-the-fact reasonableness reviews
4 of an electrical corporation's actions in compliance with an
5 approved procurement plan, including resulting electricity
6 procurement contracts, practices, and related expenses. However,
7 the commission may establish a regulatory process to verify and
8 ensure that each contract was administered in accordance with the
9 terms of the contract, and contract disputes that may arise are
10 reasonably resolved.

11 (3) Ensure timely recovery of prospective procurement costs
12 incurred pursuant to an approved procurement plan. The
13 commission shall establish rates based on forecasts of procurement
14 costs adopted by the commission, actual procurement costs
15 incurred, or combination thereof, as determined by the commission.
16 The commission shall establish power procurement balancing
17 accounts to track the differences between recorded revenues and
18 costs incurred pursuant to an approved procurement plan. The
19 commission shall review the power procurement balancing
20 accounts, not less than semiannually, and shall adjust rates or order
21 refunds, as necessary, to promptly amortize a balancing account,
22 according to a schedule determined by the commission. Until
23 January 1, 2006, the commission shall ensure that any
24 overcollection or undercollection in the power procurement
25 balancing account does not exceed 5 percent of the electrical
26 corporation's actual recorded generation revenues for the prior
27 calendar year excluding revenues collected for the Department of
28 Water Resources. The commission shall determine the schedule
29 for amortizing the overcollection or undercollection in the
30 balancing account to ensure that the ~~5-percent~~ *5-percent* threshold
31 is not exceeded. After January 1, 2006, this adjustment shall occur
32 when deemed appropriate by the commission consistent with the
33 objectives of this section.

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

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

1 (e) The commission shall provide for the periodic review and
2 prospective modification of an electrical corporation's procurement
3 plan.

4 (f) The commission may engage an independent consultant or
5 advisory service to evaluate risk management and strategy. The
6 reasonable costs of any consultant or advisory service is a
7 reimbursable expense and eligible for funding pursuant to Section
8 631.

9 (g) The commission shall adopt appropriate procedures to ensure
10 the confidentiality of any market sensitive information submitted
11 in an electrical corporation's proposed procurement plan or
12 resulting from or related to its approved procurement plan,
13 including, but not limited to, proposed or executed power purchase
14 agreements, data request responses, or consultant reports, or any
15 combination of these, provided that the Office of Ratepayer
16 Advocates and other consumer groups that are nonmarket
17 participants shall be provided access to this information under
18 confidentiality procedures authorized by the commission.

19 (h) Nothing in this section alters, modifies, or amends the
20 commission's oversight of affiliate transactions under its rules and
21 decisions or the commission's existing authority to investigate and
22 penalize an electrical corporation's alleged fraudulent activities,
23 or to disallow costs incurred as a result of gross incompetence,
24 fraud, abuse, or similar grounds. Nothing in this section expands,
25 modifies, or limits the Energy Commission's existing authority
26 and responsibilities as set forth in Sections 25216, 25216.5, and
27 25323 of the Public Resources Code.

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

32 (j) (1) Prior to its approval pursuant to Section 851 of any
33 divestiture of generation assets owned by an electrical corporation
34 on or after the date of enactment of the act adding this section, the
35 commission shall determine the impact of the proposed divestiture
36 on the electrical corporation's procurement rates and shall approve
37 a divestiture only to the extent it finds, taking into account the
38 effect of the divestiture on procurement rates, that the divestiture
39 is in the public interest and will result in net ratepayer benefits.

1 (2) Any electrical corporation’s procurement necessitated as a
 2 result of the divestiture of generation assets on or after the effective
 3 date of the act adding this subdivision shall be subject to the
 4 mechanisms and procedures set forth in this section only if its
 5 actual cost is less than the recent historical cost of the divested
 6 generation assets.

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

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

14 (l) *Prior to approving an electrical corporation’s contract for*
 15 *any new gas-fired generating unit, the commission shall require*
 16 *the electrical corporation to demonstrate compliance with its*
 17 *approved procurement plan.*

18 *SEC. 1.5. Section 454.5 of the Public Utilities Code is amended*
 19 *to read:*

20 454.5. (a) The commission shall specify the allocation of
 21 electricity, including quantity, characteristics, and duration of
 22 electricity delivery, that the Department of Water Resources shall
 23 provide under its power purchase agreements to the customers of
 24 each electrical corporation, which shall be reflected in the electrical
 25 corporation’s proposed procurement plan. Each electrical
 26 corporation shall file a proposed procurement plan with the
 27 commission not later than 60 days after the commission specifies
 28 the allocation of electricity. The proposed procurement plan shall
 29 specify the date that the electrical corporation intends to resume
 30 procurement of electricity for its retail customers, consistent with
 31 its obligation to serve. After the commission’s adoption of a
 32 procurement plan, the commission shall allow not less than 60
 33 days before the electrical corporation resumes procurement
 34 pursuant to this section.

35 (b) An electrical corporation’s proposed procurement plan shall
 36 include, but not be limited to, all of the following:

37 (1) An assessment of the price risk associated with the electrical
 38 corporation’s portfolio, including any utility-retained generation,
 39 existing power purchase and exchange contracts, and proposed
 40 contracts or purchases under which an electrical corporation will

1 procure electricity, electricity demand reductions, and
2 electricity-related products and the remaining open position to be
3 served by spot market transactions.

4 (2) A definition of each electricity product, electricity-related
5 product, and procurement related financial product, including
6 support and justification for the product type and amount to be
7 procured under the plan.

8 (3) The duration of the plan.

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

11 (5) A competitive procurement process under which the
12 electrical corporation may request bids for procurement-related
13 services, including the format and criteria of that procurement
14 process.

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

19 (7) The upfront standards and criteria by which the acceptability
20 and eligibility for rate recovery of a proposed procurement
21 transaction will be known by the electrical corporation prior to
22 execution of the transaction. This shall include an expedited
23 approval process for the commission's review of proposed contracts
24 and subsequent approval or rejection thereof. The electrical
25 corporation shall propose alternative procurement choices in the
26 event a contract is rejected.

27 (8) Procedures for updating the procurement plan.

28 (9) A showing that the procurement plan will achieve the
29 following:

30 (A) The electrical corporation, in order to fulfill its unmet
31 resource needs, shall procure resources from eligible renewable
32 energy resources in an amount sufficient to meet its procurement
33 requirements pursuant to the California Renewables Portfolio
34 Standard Program (Article 16 (commencing with Section 399.11)
35 of Chapter 2.3).

36 (B) The electrical corporation shall create or maintain a
37 diversified procurement portfolio consisting of both short-term
38 and long-term electricity and electricity-related and demand
39 reduction products.

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

4 (ii) *In determining the availability of cost-effective, reliable,
5 and feasible demand reduction resources, the commission shall
6 consider the findings regarding technically and economically
7 achievable demand reduction in the Demand Response Potential
8 Study required pursuant to Commission Order D.14-12-024, to
9 the extent those findings are not superseded by other demand
10 reduction studies conducted by academic institutions or
11 government agencies, and to the extent that any demand reduction
12 is consistent with commission policy.*

13 (D) (i) *The electrical corporation, in soliciting bids for new
14 gas-fired generating units, shall actively seek bids for resources
15 that are not gas-fired generating units located in communities that
16 suffer from cumulative pollution burdens, including, but not limited
17 to, high emission levels of toxic air contaminants, criteria air
18 pollutants, and greenhouse gases.*

19 (ii) *In considering bids for, or negotiating contracts for, new
20 gas-fired generating units, the electrical corporation shall provide
21 greater preference to resources that are not gas-fired generating
22 units located in communities that suffer from cumulative pollution
23 burdens, including, but not limited to, high emission levels of toxic
24 air contaminants, criteria air pollutants, and greenhouse gases.*

25 (iii) *This subparagraph does not apply to contracts signed by
26 an electrical corporation and approved by the commission prior
27 to January 1, 2017.*

28 (10) The electrical corporation's risk management policy,
29 strategy, and practices, including specific measures of price
30 stability.

31 (11) A plan to achieve appropriate increases in diversity of
32 ownership and diversity of fuel supply of nonutility electrical
33 generation.

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

36 (c) The commission shall review and accept, modify, or reject
37 each electrical corporation's procurement ~~plan~~. *plan and any
38 amendments or updates to the plan. The commission shall ensure
39 that the plan contains the elements required by this section,
40 including the elements described in subparagraphs (C) and (D)*

1 *of paragraph (9) of subdivision (b).* The commission’s review shall
2 consider each electrical corporation’s individual procurement
3 situation, and shall give strong consideration to that situation in
4 determining which one or more of the features set forth in this
5 subdivision shall apply to that electrical corporation. A
6 procurement plan approved by the commission shall contain one
7 or more of the following features, provided that the commission
8 may not approve a feature or mechanism for an electrical
9 corporation if it finds that the feature or mechanism would impair
10 the restoration of an electrical corporation’s creditworthiness or
11 would lead to a deterioration of an electrical corporation’s
12 creditworthiness:

13 (1) A competitive procurement process under which the
14 electrical corporation may request bids for procurement-related
15 services. The commission shall specify the format of that
16 procurement process, as well as criteria to ensure that the auction
17 process is open and adequately subscribed. Any purchases made
18 in compliance with the commission-authorized process shall be
19 recovered in the generation component of rates.

20 (2) An incentive mechanism that establishes a procurement
21 benchmark or benchmarks and authorizes the electrical corporation
22 to procure from the market, subject to comparing the electrical
23 corporation’s performance to the commission-authorized
24 benchmark or benchmarks. The incentive mechanism shall be
25 clear, achievable, and contain quantifiable objectives and standards.
26 The incentive mechanism shall contain balanced risk and reward
27 incentives that limit the risk and reward of an electrical corporation.

28 (3) Upfront achievable standards and criteria by which the
29 acceptability and eligibility for rate recovery of a proposed
30 procurement transaction will be known by the electrical corporation
31 prior to the execution of the bilateral contract for the transaction.
32 The commission shall provide for expedited review and either
33 approve or reject the individual contracts submitted by the electrical
34 corporation to ensure compliance with its procurement plan. To
35 the extent the commission rejects a proposed contract pursuant to
36 this criteria, the commission shall designate alternative procurement
37 choices obtained in the procurement plan that will be recoverable
38 for ratemaking purposes.

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

- 1 (1) Enable the electrical corporation to fulfill its obligation to
2 serve its customers at just and reasonable rates.
- 3 (2) Eliminate the need for after-the-fact reasonableness reviews
4 of an electrical corporation's actions in compliance with an
5 approved procurement plan, including resulting electricity
6 procurement contracts, practices, and related expenses. However,
7 the commission may establish a regulatory process to verify and
8 ensure that each contract was administered in accordance with the
9 terms of the contract, and contract disputes that may arise are
10 reasonably resolved.
- 11 (3) Ensure timely recovery of prospective procurement costs
12 incurred pursuant to an approved procurement plan. The
13 commission shall establish rates based on forecasts of procurement
14 costs adopted by the commission, actual procurement costs
15 incurred, or combination thereof, as determined by the commission.
16 The commission shall establish power procurement balancing
17 accounts to track the differences between recorded revenues and
18 costs incurred pursuant to an approved procurement plan. The
19 commission shall review the power procurement balancing
20 accounts, not less than semiannually, and shall adjust rates or order
21 refunds, as necessary, to promptly amortize a balancing account,
22 according to a schedule determined by the commission. Until
23 January 1, 2006, the commission shall ensure that any
24 overcollection or undercollection in the power procurement
25 balancing account does not exceed 5 percent of the electrical
26 corporation's actual recorded generation revenues for the prior
27 calendar year excluding revenues collected for the Department of
28 Water Resources. The commission shall determine the schedule
29 for amortizing the overcollection or undercollection in the
30 balancing account to ensure that the ~~5 percent~~ *5-percent* threshold
31 is not exceeded. After January 1, 2006, this adjustment shall occur
32 when deemed appropriate by the commission consistent with the
33 objectives of this section.
- 34 (4) Moderate the price risk associated with serving its retail
35 customers, including the price risk embedded in its long-term
36 supply contracts, by authorizing an electrical corporation to enter
37 into financial and other electricity-related product contracts.
- 38 (5) Provide for just and reasonable rates, with an appropriate
39 balancing of price stability and price level in the electrical
40 corporation's procurement plan.

1 (e) The commission shall provide for the periodic review and
2 prospective modification of an electrical corporation's procurement
3 plan.

4 (f) The commission may engage an independent consultant or
5 advisory service to evaluate risk management and strategy. The
6 reasonable costs of any consultant or advisory service is a
7 reimbursable expense and eligible for funding pursuant to Section
8 631.

9 (g) The commission shall adopt appropriate procedures to ensure
10 the confidentiality of any market sensitive information submitted
11 in an electrical corporation's proposed procurement plan or
12 resulting from or related to its approved procurement plan,
13 including, but not limited to, proposed or executed power purchase
14 agreements, data request responses, or consultant reports, or any
15 ~~combination~~, *combination of these*, provided that the Office of
16 Ratepayer Advocates and other consumer groups that are
17 nonmarket participants shall be provided access to this information
18 under confidentiality procedures authorized by the commission.

19 (h) Nothing in this section alters, modifies, or amends the
20 commission's oversight of affiliate transactions under its rules and
21 decisions or the commission's existing authority to investigate and
22 penalize an electrical corporation's alleged fraudulent activities,
23 or to disallow costs incurred as a result of gross incompetence,
24 fraud, abuse, or similar grounds. Nothing in this section expands,
25 modifies, or limits the ~~State Energy Resources Conservation and~~
26 ~~Development~~ *Energy* Commission's existing authority and
27 responsibilities as set forth in Sections 25216, 25216.5, and 25323
28 of the Public Resources Code.

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

33 (j) (1) Prior to its approval pursuant to Section 851 of any
34 divestiture of generation assets owned by an electrical corporation
35 on or after the date of enactment of the act adding this section, the
36 commission shall determine the impact of the proposed divestiture
37 on the electrical corporation's procurement rates and shall approve
38 a divestiture only to the extent it finds, taking into account the
39 effect of the divestiture on procurement rates, that the divestiture
40 is in the public interest and will result in net ratepayer benefits.

1 (2) Any electrical corporation’s procurement necessitated as a
 2 result of the divestiture of generation assets on or after the effective
 3 date of the act adding this subdivision shall be subject to the
 4 mechanisms and procedures set forth in this section only if its
 5 actual cost is less than the recent historical cost of the divested
 6 generation assets.

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

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

14 (l) *Prior to approving an electrical corporation’s contract for*
 15 *any new gas-fired generating unit, the commission shall require*
 16 *the electrical corporation to demonstrate compliance with its*
 17 *approved procurement plan.*

18 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
 19 *Section 454.5 of the Public Utilities Code proposed by both this*
 20 *bill and Assembly Bill 1937. It shall only become operative if (1)*
 21 *both bills are enacted and become effective on or before January*
 22 *1, 2017, (2) each bill amends Section 454.5 of the Public Utilities*
 23 *Code, and (3) this bill is enacted after Assembly Bill 1937, in which*
 24 *case Section 1 of this bill shall not become operative.*

25 ~~SEC. 2.~~

26 *SEC. 3. No reimbursement is required by this act pursuant to*
 27 *Section 6 of Article XIII B of the California Constitution because*
 28 *the only costs that may be incurred by a local agency or school*
 29 *district will be incurred because this act creates a new crime or*
 30 *infraction, eliminates a crime or infraction, or changes the penalty*
 31 *for a crime or infraction, within the meaning of Section 17556 of*
 32 *the Government Code, or changes the definition of a crime within*
 33 *the meaning of Section 6 of Article XIII B of the California*
 34 *Constitution.*