

AMENDED IN SENATE MARCH 26, 2015

AMENDED IN SENATE MARCH 12, 2015

**SENATE BILL**

**No. 180**

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**Introduced by Senator Jackson**

February 9, 2015

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An act to add Section 25544 to the Public Resources Code, and to amend the heading of Chapter 3 (commencing with Section 8340) of Division 4.1 of, and to amend, repeal, and add Sections 8340 and 8341 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 180, as amended, Jackson. Electricity: emissions of greenhouse gases.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations while local publicly owned electric utilities are under the direction of their governing board. Existing law prohibits any load-serving entity and any local publicly owned electric utility from entering into a long-term financial commitment for baseload generation unless that baseload generation complies with a greenhouse gases emission performance standard. Existing law requires the Public Utilities Commission, by February 1, 2007, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities. Existing law requires the State Energy Resources Conservation and Development Commission, by June 30, 2007, at a duly noticed public hearing and in consultation with the Public Utilities Commission and the State Air Resources Board, to

establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities.

This bill would, on July 1, 2017, replace the greenhouse gases emission performance standards for baseload generation with greenhouse gases emission performance standards for nonpeaking generation and ~~peaking generation, as defined.~~ *generation*. The bill would require the Public Utilities Commission, by June 30, 2017, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all nonpeaking generation of load-serving entities, and a separate standard for peaking generation. The bill would require the State Energy Resources Conservation and Development Commission, by June 30, 2017, at a duly noticed public hearing and in consultation with the Public Utilities Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all nonpeaking generation of local publicly owned electric utilities, and a separate standard for peaking generation. The bill would require that the greenhouse gases emission performance standard for nonpeaking generation and peaking generation be established at the lowest level that the respective commissions determine to be technologically feasible without putting reliability of the electrical grid and of electric service at risk. The bill would require that the commissions update their respective greenhouse gases emission performance standards every 5 years based on new technology. The bill would require that the greenhouse gases emission performance standard for nonpeaking generation that will take effect on July 1, 2027, establish a rate of emissions of greenhouse gases that is ~~80% lower than the permissible rate of emissions of greenhouse gases for baseload generation in effect as of January 1, 2015.~~ *has an initial cap that is not higher than the rate of emissions of greenhouse gases for the lowest-emitting combined-cycle natural gas powerplant in operation at that time.*

Existing law makes any public utility that fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime. Existing law additionally makes every corporation or person other than a public utility who fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime.

Because this bill would require action by the Public Utilities Commission to implement its requirements with respect to a load-serving

entity, and a violation of an order or decision of the Public Utilities Commission would be a crime, the bill would impose a state-mandated local program by expanding what is a crime.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act grants the commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.

The California Environmental Quality Act (CEQA) generally requires all state and local governmental lead agencies to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project that they propose to carry out or approve that may result in a significant effect on the environment, that is, a substantial, or potentially substantial, adverse change in the physical conditions that exist within the area that will be affected by the project. CEQA authorizes the plan or other written documentation containing environmental information of state agencies to be submitted in lieu of an otherwise required environmental impact report if the Secretary of the Natural Resources Agency has certified the regulatory program in a specified manner.

This bill would provide that any carbon capture and storage project associated with an application for certification is a related facility for purposes of the certification of a thermal powerplant by the State Energy Resources Conservation and Development Commission and for purposes of the secretary's authority with respect to a certified regulatory program.

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:*

SECTION 1. Section 25544 is added to the Public Resources Code, to read:

25544. Any carbon capture and storage project associated with an application for certification is a related facility pursuant to this chapter and for purposes of Section 21080.5. For purposes of this section, “carbon capture and storage,” also known as carbon capture and sequestration, means any method authorized by the commission for preventing the release of greenhouse gases into the atmosphere, including the injection of carbon dioxide or other greenhouse gases into geological formations so as to prevent releases into the atmosphere.

SEC. 2. The heading of Chapter 3 (commencing with Section 8340) of Division 4.1 of the Public Utilities Code is amended to read:

CHAPTER 3. GREENHOUSE GASES EMISSION PERFORMANCE  
STANDARD

SEC. 3. Section 8340 of the Public Utilities Code is amended to read:

8340. For purposes of this chapter, the following terms have the following meanings:

(a) “Baseload generation” means electricity generation from a powerplant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent.

(b) “Combined-cycle natural gas” with respect to a powerplant means the powerplant employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(c) “Electric service provider” means an “electric service provider” as defined in Section 218.3, but does not include corporations or persons employing cogeneration technology or producing electricity from other than a conventional power source consistent with subdivision (b) of Section 218.

(d) “Greenhouse gases” means those gases listed in Section 38505 of the Health and Safety Code.

1 (e) “Load-serving entity” means every electrical corporation,  
2 electric service provider, or community choice aggregator serving  
3 end-use customers in the state.

4 (f) “Long-term financial commitment” means either a new  
5 ownership investment in baseload generation or a new or renewed  
6 contract with a term of five or more years, which includes  
7 procurement of baseload generation.

8 (g) “Output-based methodology” means a greenhouse gases  
9 emission performance standard that is expressed in pounds of  
10 greenhouse gases emitted per megawatthour and factoring in the  
11 useful thermal energy employed for purposes other than the  
12 generation of electricity.

13 (h) “Plant capacity factor” means the ratio of the electricity  
14 produced during a given time period, measured in kilowatthours,  
15 to the electricity the unit could have produced if it had been  
16 operated at its rated capacity during that period, expressed in  
17 kilowatthours.

18 (i) “Powerplant” means a facility for the generation of electricity,  
19 and includes one or more generating units at the same location.

20 (j) “Zero- or low-carbon generating resource” means an  
21 electrical generating resource that will generate electricity while  
22 producing emissions of greenhouse gases at a rate substantially  
23 below the greenhouse gases emission performance standard, as  
24 determined by the commission.

25 (k) This section shall become inoperative on July 1, 2017, and,  
26 as of January 1, 2018, is repealed.

27 SEC. 4. Section 8340 is added to the Public Utilities Code, to  
28 read:

29 8340. For purposes of this chapter, the following terms have  
30 the following meanings:

31 (a) “Electric service provider” has the same meaning as defined  
32 in Section 218.3, but does not include corporations or persons  
33 employing cogeneration technology or producing electricity from  
34 other than a conventional power source consistent with subdivision  
35 (b) of Section 218.

36 ~~(b) “Exempt generation” means electricity generation from a~~  
37 ~~powerplant that is designed and intended to provide electricity at~~  
38 ~~an annualized plant capacity factor of less than 2 percent.~~

39 (e)

1 (b) “Greenhouse gases” means those gases listed in Section  
2 38505 of the Health and Safety Code.

3 ~~(d)~~

4 (c) “Greenhouse gases emission performance standard” means  
5 the permissible levels of emissions of greenhouse gases established  
6 pursuant to Section 8341 for nonpeaking generation and peaking  
7 generation.

8 ~~(e)~~

9 (d) “Load-serving entity” means every electrical corporation,  
10 electric service provider, or community choice aggregator serving  
11 end-use customers in the state.

12 ~~(f)~~

13 (e) “Long-term financial commitment” means either a new  
14 ownership investment in nonpeaking generation or peaking  
15 generation or a new or renewed contract with a term of five or  
16 more years, which includes procurement of nonpeaking generation  
17 or peaking generation.

18 ~~(g)~~

19 (f) “Nonpeaking generation” means electricity generation from  
20 a powerplant that is designed and intended to provide electricity  
21 at an annualized plant capacity factor ~~of at least 15 percent~~. *to be*  
22 *determined by the commission and the Energy Commission, in*  
23 *consultation with the Independent System Operator. In making*  
24 *this determination, consideration shall be given to both current*  
25 *energy generation needs, as well as energy generation needs as*  
26 *the greenhouse gases emission performance standards for*  
27 *nonpeaking generation are implemented.* “Nonpeaking powerplant”  
28 means a powerplant that provides nonpeaking generation.

29 ~~(h)~~

30 (g) “Output-based methodology” means a greenhouse gases  
31 emission performance standard that is expressed in pounds of  
32 greenhouse gases emitted per megawatthour and factoring in the  
33 useful thermal energy employed for purposes other than the  
34 generation of electricity.

35 ~~(i)~~

36 (h) “Peaking generation” means electricity generation from a  
37 powerplant that is designed and intended to provide electricity at  
38 an annualized plant capacity factor ~~of less than 15 percent and at~~  
39 ~~least 2 percent~~. *to be determined by the commission and the Energy*  
40 *Commission, in consultation with the Independent System*

1 *Operator. In making this determination, consideration shall be*  
2 *given to both current energy generation needs, as well as energy*  
3 *generation needs as the greenhouse gases emission performance*  
4 *standards for peaking generation are implemented. “Peaking*  
5 *powerplant” means a powerplant that provides peaking generation.*

6 ~~(j)~~

7 (i) “Plant capacity factor” means the ratio of the electricity  
8 produced during a given time period, measured in kilowatthours,  
9 to the electricity the unit could have produced if it had been  
10 operated at its rated capacity during that period, expressed in  
11 kilowatthours.

12 ~~(k)~~

13 (j) “Powerplant” means a facility for the generation of electricity,  
14 and includes one or more generating units at the same location.

15 ~~(l)~~

16 (k) “Zero- or low-carbon generating resource” means an  
17 electrical generating resource that will generate electricity while  
18 producing emissions of greenhouse gases at a rate substantially  
19 below the greenhouse gases emission performance standard, as  
20 determined by the commission.

21 ~~(m)~~

22 (l) This section shall become operative on January 1, 2017.

23 SEC. 5. Section 8341 of the Public Utilities Code is amended  
24 to read:

25 8341. (a) No load-serving entity or local publicly owned  
26 electric utility may enter into a long-term financial commitment  
27 unless any baseload generation supplied under the long-term  
28 financial commitment complies with the greenhouse gases emission  
29 performance standard established by the commission, pursuant to  
30 subdivision (d), for a load-serving entity, or by the Energy  
31 Commission, pursuant to subdivision (e), for a local publicly owned  
32 electric utility.

33 (b) (1) The commission shall not approve a long-term financial  
34 commitment by an electrical corporation unless any baseload  
35 generation supplied under the long-term financial commitment  
36 complies with the greenhouse gases emission performance standard  
37 established by the commission pursuant to subdivision (d).

38 (2) The commission may, in order to enforce this section, review  
39 any long-term financial commitment proposed to be entered into  
40 by an electric service provider or a community choice aggregator.

1 (3) The commission shall adopt rules to enforce the requirements  
2 of this section, for load-serving entities. The commission shall  
3 adopt procedures, for all load-serving entities, to verify the  
4 emissions of greenhouse gases from any baseload generation  
5 supplied under a contract subject to the greenhouse gases emission  
6 performance standard to ensure compliance with the standard.

7 (4) In determining whether a long-term financial commitment  
8 is for baseload generation, the commission shall consider the design  
9 of the powerplant and the intended use of the powerplant, as  
10 determined by the commission based upon the electricity purchase  
11 contract, any certification received from the Energy Commission,  
12 any other permit or certificate necessary for the operation of the  
13 powerplant, including a certificate of public convenience and  
14 necessity, any procurement approval decision for the load-serving  
15 entity, and any other matter the commission determines is relevant  
16 under the circumstances.

17 (5) Costs incurred by an electrical corporation to comply with  
18 this section, including those costs incurred for electricity purchase  
19 agreements that are approved by the commission that comply with  
20 the greenhouse gases emission performance standard, are to be  
21 treated as procurement costs incurred pursuant to an approved  
22 procurement plan and the commission shall ensure timely cost  
23 recovery of those costs pursuant to paragraph (3) of subdivision  
24 (d) of Section 454.5.

25 (6) A long-term financial commitment entered into through a  
26 contract approved by the commission, for electricity generated by  
27 a zero- or low-carbon generating resource that is contracted for,  
28 on behalf of consumers of this state on a cost-of-service basis,  
29 shall be recoverable in rates, in a manner determined by the  
30 commission consistent with Section 380. The commission may,  
31 after a hearing, approve an increase from one-half to 1 percent in  
32 the return on investment by the third party entering into the contract  
33 with an electrical corporation with respect to investment in zero-  
34 or low-carbon generation resources authorized pursuant to this  
35 subdivision.

36 (c) (1) The Energy Commission shall adopt regulations for the  
37 enforcement of this chapter with respect to a local publicly owned  
38 electric utility.

39 (2) The Energy Commission may, in order to ensure compliance  
40 with the greenhouse gases emission performance standard by local



publicly owned electric utilities, apply the procedures adopted by the commission to verify the emissions of greenhouse gases from baseload generation pursuant to subdivision (b).

(3) In determining whether a long-term financial commitment is for baseload generation, the Energy Commission shall consider the design of the powerplant and the intended use of the powerplant, as determined by the Energy Commission based upon the electricity purchase contract, any certification received from the Energy Commission, any other permit for the operation of the powerplant, any procurement approval decision for the load-serving entity, and any other matter the Energy Commission determines is relevant under the circumstances.

(d) (1) On or before February 1, 2007, the commission, through a rulemaking proceeding, and in consultation with the Energy Commission and the State Air Resources Board, shall establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities, at a rate of emissions of greenhouse gases that is no higher than the rate of emissions of greenhouse gases for combined-cycle natural gas baseload generation. Enforcement of the greenhouse gases emission performance standard shall begin immediately upon the establishment of the standard. All combined-cycle natural gas powerplants that are in operation, or that have an Energy Commission final permit decision to operate as of June 30, 2007, shall be deemed to be in compliance with the greenhouse gases emission performance standard.

(2) In determining the rate of emissions of greenhouse gases for baseload generation, the commission shall include the net emissions resulting from the production of electricity by the baseload generation.

(3) The commission shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

(4) In calculating the emissions of greenhouse gases by facilities generating electricity from biomass, biogas, or landfill gas energy, the commission shall consider net emissions from the process of growing, processing, and generating the electricity from the fuel source.

1 (5) Carbon dioxide that is injected in geological formations, so  
2 as to prevent releases into the atmosphere, in compliance with  
3 applicable laws and regulations shall not be counted as emissions  
4 of the powerplant in determining compliance with the greenhouse  
5 gases emissions performance standard.

6 (6) In adopting and implementing the greenhouse gases emission  
7 performance standard, the commission, in consultation with the  
8 Independent System Operator shall consider the effects of the  
9 standard on system reliability and overall costs to electricity  
10 customers.

11 (7) In developing and implementing the greenhouse gases  
12 emission performance standard, the commission shall address  
13 long-term purchases of electricity from unspecified sources in a  
14 manner consistent with this chapter.

15 (8) In developing and implementing the greenhouse gases  
16 emission performance standard, the commission shall consider  
17 and act in a manner consistent with any rules adopted pursuant to  
18 Section 824a-3 of Title 16 of the United States Code.

19 (9) An electrical corporation that provides electric service to  
20 75,000 or fewer retail end-use customers in California may file  
21 with the commission a proposal for alternative compliance with  
22 this section, which the commission may accept upon a showing  
23 by the electrical corporation of both of the following:

24 (A) A majority of the electrical corporation's retail end-use  
25 customers for electric service are located outside of California.

26 (B) The emissions of greenhouse gases to generate electricity  
27 for the retail end-use customers of the electrical corporation are  
28 subject to a review by the utility regulatory commission of at least  
29 one other state in which the electrical corporation provides  
30 regulated retail electric service.

31 (e) (1) On or before June 30, 2007, the Energy Commission,  
32 at a duly noticed public hearing and in consultation with the  
33 commission and the State Air Resources Board, shall establish a  
34 greenhouse gases emission performance standard for all baseload  
35 generation of local publicly owned electric utilities at a rate of  
36 emissions of greenhouse gases that is no higher than the rate of  
37 emissions of greenhouse gases for combined-cycle natural gas  
38 baseload generation. The greenhouse gases emission performance  
39 standard established by the Energy Commission for local publicly  
40 owned electric utilities shall be consistent with the standard adopted

1 by the commission for load-serving entities. Enforcement of the  
2 greenhouse gases emission performance standard shall begin  
3 immediately upon the establishment of the standard. All  
4 combined-cycle natural gas powerplants that are in operation, or  
5 that have an Energy Commission final permit decision to operate  
6 as of June 30, 2007, shall be deemed to be in compliance with the  
7 greenhouse gases emission performance standard.

8 (2) The greenhouse gases emission performance standard shall  
9 be adopted by regulation pursuant to the Administrative Procedure  
10 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
11 Division 3 of Title 2 of the Government Code).

12 (3) In determining the rate of emissions of greenhouse gases  
13 for baseload generation, the Energy Commission shall include the  
14 net emissions resulting from the production of electricity by the  
15 baseload generation.

16 (4) The Energy Commission shall establish an output-based  
17 methodology to ensure that the calculation of emissions of  
18 greenhouse gases for cogeneration recognizes the total usable  
19 energy output of the process, and includes all greenhouse gases  
20 emitted by the facility in the production of both electrical and  
21 thermal energy.

22 (5) In calculating the emissions of greenhouse gases by facilities  
23 generating electricity from biomass, biogas, or landfill gas energy,  
24 the Energy Commission shall consider net emissions from the  
25 process of growing, processing, and generating the electricity from  
26 the fuel source.

27 (6) Carbon dioxide that is captured from the emissions of a  
28 powerplant and that is permanently disposed of in geological  
29 formations in compliance with applicable laws and regulations,  
30 shall not be counted as emissions from the powerplant.

31 (7) In adopting and implementing the greenhouse gases emission  
32 performance standard, the Energy Commission, in consultation  
33 with the Independent System Operator, shall consider the effects  
34 of the standard on system reliability and overall costs to electricity  
35 customers.

36 (8) In developing and implementing the greenhouse gases  
37 emission performance standard, the Energy Commission shall  
38 address long-term purchases of electricity from unspecified sources  
39 in a manner consistent with this chapter.

(9) In developing and implementing the greenhouse gases emission performance standard, the Energy Commission shall consider and act in a manner consistent with any rules adopted pursuant to Section 824a-3 of Title 16 of the United States Code.

(f) The Energy Commission, in a duly noticed public hearing and in consultation with the commission and the State Air Resources Board, shall reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit is established and in operation, that is applicable to local publicly owned electric utilities.

(g) The commission, through a rulemaking proceeding and in consultation with the Energy Commission and the State Air Resources Board, shall reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit is established and in operation, that is applicable to load-serving entities.

(h) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed.

SEC. 6. Section 8341 is added to the Public Utilities Code, to read:

8341. (a) (1) Beginning July 1, 2017, no load-serving entity or local publicly owned electric utility may enter into a new long-term financial commitment unless any nonpeaking generation supplied under the long-term financial commitment complies with the greenhouse gases emission performance standard established by the commission, pursuant to subdivision (d), for a load-serving entity, or by the Energy Commission, pursuant to subdivision (f), for a local publicly owned electric utility.

(2) Beginning July 1, 2017, no load-serving entity or local publicly owned electric utility may enter into a new long-term financial commitment unless any peaking generation supplied under the long-term financial commitment complies with the greenhouse gases emission performance standard established by the commission, pursuant to subdivision (e), for a load-serving entity, or by the Energy Commission, pursuant to subdivision (g), for a local publicly owned electric utility.

~~(3) Neither the commission nor the Energy Commission shall establish a greenhouse gases emission performance standard for exempt generation.~~

1     (3) *Once a powerplant has all necessary permits or certificates*  
2 *to operate and has been deemed to comply with the applicable*  
3 *greenhouse gases emission performance standard, the permitted*  
4 *or certificated greenhouse gases emission performance standard*  
5 *is the only greenhouse gases emission performance standard that*  
6 *shall govern the powerplant's energy generation.*

7     (b) (1) (A) The commission shall not approve a long-term  
8 financial commitment by an electrical corporation unless the  
9 nonpeaking generation supplied under the long-term financial  
10 commitment complies with the greenhouse gases emission  
11 performance standard established by the commission pursuant to  
12 subdivision (d).

13     (B) The commission shall not approve a long-term financial  
14 commitment by an electrical corporation unless the peaking  
15 generation supplied under the long-term financial commitment  
16 complies with the greenhouse gases emission performance standard  
17 established by the commission pursuant to subdivision (e).

18     (2) The commission may, in order to enforce this section, review  
19 any long-term financial commitment proposed to be entered into  
20 by an electric service provider or a community choice aggregator.

21     (3) The commission shall adopt rules to enforce the requirements  
22 of this section, for load-serving entities. The commission shall  
23 adopt procedures, for all load-serving entities, to verify the  
24 emissions of greenhouse gases from any nonpeaking generation  
25 or peaking generation supplied under a contract subject to the  
26 greenhouse gases emission performance standard to ensure  
27 compliance with the standard.

28     (4) In determining whether a long-term financial commitment  
29 is for nonpeaking generation or peaking generation, the commission  
30 shall consider the design of the powerplant and the intended use  
31 of the powerplant, as determined by the commission based upon  
32 the electricity purchase contract, any certification received from  
33 the Energy Commission, any other permit or certificate necessary  
34 for the operation of the powerplant, including a certificate of public  
35 convenience and necessity, any procurement approval decision  
36 for the load-serving entity, and any other matter the commission  
37 determines is relevant under the circumstances.

38     (5) Costs incurred by an electrical corporation to comply with  
39 this section, including those costs incurred for electricity purchase  
40 agreements that are approved by the commission that comply with

1 the respective greenhouse gases emission performance standards,  
2 are to be treated as procurement costs incurred pursuant to an  
3 approved procurement plan and the commission shall ensure timely  
4 cost recovery of those costs pursuant to paragraph (3) of  
5 subdivision (d) of Section 454.5.

6 (6) A long-term financial commitment entered into through a  
7 contract approved by the commission, for electricity generated by  
8 a zero- or low-carbon generating resource that is contracted for,  
9 on behalf of consumers of this state on a cost-of-service basis,  
10 shall be recoverable in rates, in a manner determined by the  
11 commission consistent with Section 380. The commission may,  
12 after a hearing, approve an increase from one-half to 1 percent in  
13 the return on investment by the third party entering into the contract  
14 with an electrical corporation with respect to investment in zero-  
15 or low-carbon generation resources authorized pursuant to this  
16 paragraph.

17 (c) (1) The Energy Commission shall adopt regulations for the  
18 enforcement of this chapter with respect to a local publicly owned  
19 electric utility.

20 (2) The Energy Commission may, in order to ensure compliance  
21 with the greenhouse gases emission performance standard by local  
22 publicly owned electric utilities, apply the procedures adopted by  
23 the commission to verify the emissions of greenhouse gases from  
24 nonpeaking generation and peaking generation pursuant to  
25 subdivision (b).

26 (3) In determining whether a long-term financial commitment  
27 is for nonpeaking generation or peaking generation, the Energy  
28 Commission shall consider the design of the powerplant and the  
29 intended use of the powerplant, as determined by the Energy  
30 Commission based upon the electricity purchase contract, any  
31 certification received from the Energy Commission, any other  
32 permit for the operation of the powerplant, any procurement  
33 approval decision for the load-serving entity, and any other matter  
34 the Energy Commission determines is relevant under the  
35 circumstances.

36 (d) (1) On or before June 30, 2017, the commission, through a  
37 rulemaking proceeding, and in consultation with the Energy  
38 Commission and the State Air Resources Board, shall establish a  
39 greenhouse gases emission performance standard for all nonpeaking  
40 generation of load-serving entities. The greenhouse gases emission

performance standard for nonpeaking generation shall be established at the lowest level that the commission determines to be technologically feasible without putting reliability of the electrical grid and of electric service at risk. Enforcement of the greenhouse gases emission performance standard for nonpeaking generation shall begin on July 1, 2017. The commission, in consultation with the Energy Commission and the State Air Resources Board, shall update the greenhouse gases emission performance standard for nonpeaking generation every five years based on new technology. The greenhouse gases emission performance standard for nonpeaking generation that will take effect on July 1, 2027, shall establish a rate of emissions of greenhouse gases that is 80 percent lower than the permissible rate of emissions of greenhouse gases for baseload generation in effect as of January 1, 2015: *has an initial cap that is not higher than the rate of emissions of greenhouse gases for the lowest-emitting combined-cycle natural gas powerplant in operation at that time.*

(2) In determining the rate of emissions of greenhouse gases for nonpeaking generation, the commission shall include the net emissions resulting from the production of electricity by the nonpeaking generation.

(3) The commission shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electricity and thermal energy.

(4) In calculating the emissions of greenhouse gases by facilities generating electricity from biomass, biogas, or landfill gas energy, the commission shall ~~consider net emissions from the process of growing, processing, and generating the electricity from the fuel source.~~ *reconsider and modify its prior decisions implementing this section, including, but not limited to, D.07-01-039, in light of the best and most recent scientific information available regarding methodologies for determining the greenhouse gas emissions associated with producing energy from different biomass feedstocks.*

(5) Greenhouse gases that are prevented from being released into the atmosphere as a result of carbon capture and storage or carbon capture and sequestration, in compliance with applicable laws and regulations, shall not be counted as emissions of the

1 powerplant in determining compliance with the greenhouse gases  
2 emission performance standard for nonpeaking generation.

3 (6) In adopting and implementing the greenhouse gases emission  
4 performance standard for nonpeaking generation, the commission,  
5 in consultation with the Independent System Operator, shall  
6 consider the effects of the standard on system reliability and overall  
7 costs to electricity customers.

8 (7) In developing and implementing the greenhouse gases  
9 emission performance standard for nonpeaking generation, the  
10 commission shall address long-term purchases of electricity from  
11 unspecified sources in a manner consistent with this chapter.

12 (8) In developing and implementing the greenhouse gases  
13 emission performance standard for nonpeaking generation, the  
14 commission shall consider and act in a manner consistent with any  
15 rules adopted pursuant to Section 824a-3 of Title 16 of the United  
16 States Code.

17 (9) An electrical corporation that provides electric service to  
18 75,000 or fewer retail end-use customers in California may file  
19 with the commission a proposal for alternative compliance with  
20 this subdivision, which the commission may accept upon a showing  
21 by the electrical corporation of both of the following:

22 (A) A majority of the electrical corporation's retail end-use  
23 customers for electric service are located outside of California.

24 (B) The emissions of greenhouse gases to generate electricity  
25 for the retail end-use customers of the electrical corporation are  
26 subject to a review by the utility regulatory commission of at least  
27 one other state in which the electrical corporation provides  
28 regulated retail electric service.

29 (e) (1) On or before June 30, 2017, the commission, through a  
30 rulemaking proceeding, and in consultation with the Energy  
31 Commission and the State Air Resources Board, shall establish a  
32 greenhouse gases emission performance standard for all peaking  
33 generation of load-serving entities. The greenhouse gases emission  
34 performance standard for peaking generation shall be established  
35 at the lowest level that the commission determines to be  
36 technologically feasible without putting reliability of the electrical  
37 grid and of electric service at risk. Enforcement of the greenhouse  
38 gases emission performance standard for peaking generation shall  
39 begin on July 1, 2017. The commission, in consultation with the  
40 Energy Commission and the State Air Resources Board, shall



1 update the greenhouse gases emission performance standard for  
2 peaking generation every five years based on new technology.

3 (2) In determining the rate of emissions of greenhouse gases  
4 for peaking generation, the commission shall include the net  
5 emissions resulting from the production of electricity by the  
6 peaking generation.

7 (3) The commission shall establish an output-based methodology  
8 to ensure that the calculation of emissions of greenhouse gases for  
9 cogeneration recognizes the total usable energy output of the  
10 process, and includes all greenhouse gases emitted by the facility  
11 in the production of both electrical and thermal energy.

12 (4) In calculating the emissions of greenhouse gases by facilities  
13 generating electricity from biomass, biogas, or landfill gas energy,  
14 the commission shall ~~consider net emissions from the process of~~  
15 ~~growing, processing, and generating the electricity from the fuel~~  
16 ~~source.~~ *reconsider and modify its prior decisions implementing*  
17 *this section, including, but not limited to, D.07-01-039, in light of*  
18 *the best and most recent scientific information available regarding*  
19 *methodologies for determining the greenhouse gas emissions*  
20 *associated with producing energy from different biomass*  
21 *feedstocks.*

22 (5) Greenhouse gases that are prevented from being released  
23 into the atmosphere as a result of carbon capture and storage or  
24 carbon capture and sequestration, in compliance with applicable  
25 laws and regulations, shall not be counted as emissions of the  
26 powerplant in determining compliance with the greenhouse gases  
27 emission performance standard for peaking generation.

28 (6) In adopting and implementing the greenhouse gases emission  
29 performance standard for peaking generation, the commission, in  
30 consultation with the Independent System Operator, shall consider  
31 the effects of the standard on system reliability and overall costs  
32 to electricity customers.

33 (7) In developing and implementing the greenhouse gases  
34 emission performance standard for peaking generation, the  
35 commission shall address long-term purchases of electricity from  
36 unspecified sources in a manner consistent with this chapter.

37 (8) In developing and implementing the greenhouse gases  
38 emission performance standard for peaking generation, the  
39 commission shall consider and act in a manner consistent with any

1 rules adopted pursuant to Section 824a-3 of Title 16 of the United  
2 States Code.

3 (9) An electrical corporation that provides electric service to  
4 75,000 or fewer retail end-use customers in California may file  
5 with the commission a proposal for alternative compliance with  
6 this subdivision, which the commission may accept upon a showing  
7 by the electrical corporation of both of the following:

8 (A) A majority of the electrical corporation's retail end-use  
9 customers for electric service are located outside of California.

10 (B) The emissions of greenhouse gases to generate electricity  
11 for the retail end-use customers of the electrical corporation are  
12 subject to a review by the utility regulatory commission of at least  
13 one other state in which the electrical corporation provides  
14 regulated retail electric service.

15 (f) (1) On or before June 30, 2017, the Energy Commission, at  
16 a duly noticed public hearing and in consultation with the  
17 commission and the State Air Resources Board, shall establish a  
18 greenhouse gases emission performance standard for all nonpeaking  
19 generation of local publicly owned electric utilities. The greenhouse  
20 gases emission performance standard for nonpeaking generation  
21 shall be established at the lowest level that the Energy Commission  
22 determines to be technologically feasible without putting reliability  
23 of the electrical grid and of electric service at risk. The greenhouse  
24 gases emission performance standard for nonpeaking generation  
25 established by the Energy Commission for local publicly owned  
26 electric utilities shall be consistent with the standard adopted by  
27 the commission for load-serving entities. Enforcement of the  
28 greenhouse gases emission performance standard for nonpeaking  
29 generation shall begin on July 1, 2017. The Energy Commission,  
30 in consultation with the commission and the State Air Resources  
31 Board, shall update the greenhouse gases emission performance  
32 standard for nonpeaking generation every five years based on new  
33 technology. The greenhouse gases emission performance standard  
34 for nonpeaking generation that will take effect on July 1, 2027,  
35 shall establish a rate of emissions of greenhouse gases that is 80  
36 percent lower than the permissible rate of emissions of greenhouse  
37 gases for baseload generation in effect as of January 1, 2015. *has*  
38 *an initial cap that is not higher than the rate of emissions of*  
39 *greenhouse gases for the lowest-emitting combined-cycle natural*  
40 *gas powerplant in operation at that time.*

1 (2) The greenhouse gases emission performance standard for  
2 nonpeaking generation shall be adopted by regulation pursuant to  
3 the Administrative Procedure Act (Chapter 3.5 (commencing with  
4 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
5 Code).

6 (3) In determining the rate of emissions of greenhouse gases  
7 for nonpeaking generation, the Energy Commission shall include  
8 the net emissions resulting from the production of electricity by  
9 the nonpeaking generation.

10 (4) The Energy Commission shall establish an output-based  
11 methodology to ensure that the calculation of emissions of  
12 greenhouse gases for cogeneration recognizes the total usable  
13 energy output of the process, and includes all greenhouse gases  
14 emitted by the facility in the production of both electricity and  
15 thermal energy.

16 (5) In calculating the emissions of greenhouse gases by facilities  
17 generating electricity from biomass, biogas, or landfill gas energy,  
18 ~~the commission~~ Energy Commission shall ~~consider net emissions~~  
19 ~~from the process of growing, processing, and generating the~~  
20 ~~electricity from the fuel source; act consistent with the~~  
21 ~~commission's reconsideration and modification of its prior~~  
22 ~~decisions implementing this section, including, but not limited to,~~  
23 ~~D.07-01-039, in light of the best and most recent scientific~~  
24 ~~information available regarding methodologies for determining~~  
25 ~~the greenhouse gas emissions associated with producing energy~~  
26 ~~from different biomass feedstocks.~~

27 (6) Greenhouse gases that are prevented from being released  
28 into the atmosphere as a result of carbon capture and storage or  
29 carbon capture and sequestration, in compliance with applicable  
30 laws and regulations, shall not be counted as emissions of the  
31 powerplant in determining compliance with the greenhouse gases  
32 emission performance standard for nonpeaking generation.

33 (7) In adopting and implementing the greenhouse gases emission  
34 performance standard for nonpeaking generation, the Energy  
35 Commission, in consultation with the Independent System  
36 Operator, shall consider the effects of the standard on system  
37 reliability and overall costs to electricity customers.

38 (8) In developing and implementing the greenhouse gases  
39 emission performance standard for nonpeaking generation, the

1 commission shall address long-term purchases of electricity from  
2 unspecified sources in a manner consistent with this chapter.

3 (9) In developing and implementing the greenhouse gases  
4 emission performance standard for nonpeaking generation, the  
5 Energy Commission shall consider and act in a manner consistent  
6 with any rules adopted pursuant to Section 824a-3 of Title 16 of  
7 the United States Code.

8 (g) (1) On or before June 30, 2017, the Energy Commission,  
9 through a rulemaking proceeding, and in consultation with the  
10 commission and the State Air Resources Board, shall establish a  
11 greenhouse gases emission performance standard for all peaking  
12 generation of load-serving entities. The greenhouse gases emission  
13 performance standard for peaking generation shall be established  
14 at the lowest level that the Energy Commission determines to be  
15 technologically feasible without putting reliability of the electrical  
16 grid and of electric service at risk. The greenhouse gases emission  
17 performance standard for peaking generation established by the  
18 Energy Commission for local publicly owned electric utilities shall  
19 be consistent with the standard adopted by the commission for  
20 load-serving entities. Enforcement of the greenhouse gases  
21 emission performance standard for peaking generation shall begin  
22 on July 1, 2017. The Energy Commission, in consultation with the  
23 commission and the State Air Resources Board, shall update the  
24 greenhouse gases emission performance standard for peaking  
25 generation every five years based on new technology.

26 (2) The greenhouse gases emission performance standard for  
27 peaking generation shall be adopted by regulation pursuant to the  
28 Administrative Procedure Act (Chapter 3.5 (commencing with  
29 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
30 Code).

31 (3) In determining the rate of emissions of greenhouse gases  
32 for peaking generation, the Energy Commission shall include the  
33 net emissions resulting from the production of electricity by the  
34 peaking generation.

35 (4) The Energy Commission shall establish an output-based  
36 methodology to ensure that the calculation of emissions of  
37 greenhouse gases for cogeneration recognizes the total usable  
38 energy output of the process, and includes all greenhouse gases  
39 emitted by the facility in the production of both electricity and  
40 thermal energy.

(5) In calculating the emissions of greenhouse gases by facilities generating electricity from biomass, biogas, or landfill gas energy, the Energy Commission shall ~~consider net emissions from the process of growing, processing, and generating the electricity from the fuel source.~~ *act consistent with the commission's reconsideration and modification of its prior decisions implementing this section, including, but not limited to, D.07-01-039, in light of the best and most recent scientific information available regarding methodologies for determining the greenhouse gas emissions associated with producing energy from different biomass feedstocks.*

(6) Greenhouse gases that are prevented from being released into the atmosphere as a result of carbon capture and storage or carbon capture and sequestration, in compliance with applicable laws and regulations, shall not be counted as emissions of the powerplant in determining compliance with the greenhouse gases emission performance standard for peaking generation.

(7) In adopting and implementing the greenhouse gases emission performance standard for peaking generation, the Energy Commission, in consultation with the Independent System Operator, shall consider the effects of the standard on system reliability and overall costs to electricity customers.

(8) In developing and implementing the greenhouse gases emission performance standard for peaking generation, the Energy Commission shall address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(9) In developing and implementing the greenhouse gases emission performance standard for peaking generation, the Energy Commission shall consider and act in a manner consistent with any rules adopted pursuant to Section 824a-3 of Title 16 of the United States Code.

(h) (1) It is the intent of the Legislature that the greenhouse gases emission performance standard operate in a prospective manner.

(2) (A) A nonpeaking powerplant that has all necessary permits or certificates to operate at the time it commences operation may continue to operate and provide nonpeaking generation for its anticipated useful life and need not comply with a greenhouse gases emission performance standard adopted after it commences operation.

1 (B) A nonpeaking powerplant that meets the applicable  
2 greenhouse gases emission performance standard at the time it  
3 commences operation may continue to operate and provide  
4 nonpeaking generation for its anticipated useful life and need not  
5 comply with a more stringent greenhouse gases emission  
6 performance standard adopted after it commences operation.

7 (3) (A) A peaking powerplant that has all necessary permits or  
8 certificates to operate at the time it commences operation may  
9 continue to operate and provide peaking generation for its  
10 anticipated useful life and need not comply with a greenhouse  
11 gases emission performance standard adopted after it commences  
12 operation.

13 (B) A peaking powerplant that meets the applicable greenhouse  
14 gases emission performance standard at the time it commences  
15 operation may continue to operate and provide peaking generation  
16 for its anticipated useful life and need not comply with a more  
17 stringent greenhouse gases emission performance standard adopted  
18 after it commences operation.

19 (4) (A) The commission shall determine the anticipated useful  
20 life of a nonpeaking or peaking powerplant and when that  
21 powerplant commences or commenced operation for a load-serving  
22 entity.

23 (B) The Energy Commission shall determine the anticipated  
24 useful life of a nonpeaking or peaking powerplant and when that  
25 powerplant commences or commenced operation for a local  
26 publicly owned electric utility.

27 (i) This section shall become operative on January 1, 2017.

28 SEC. 7. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.