

Introduced by Senator De León
(Principal coauthor: Assembly Member Williams)

February 19, 2016

An act to amend Section 8341 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1453, as introduced, De León. Electrical generation: greenhouse gases emission performance standard.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities are under the direction of their governing boards. Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law prohibits any load-serving entity, consisting of electrical corporations, electric service providers, and community choice aggregators serving end-use customers in the state, and any local publicly owned electric utility, from entering into a long-term financial commitment, as defined, for baseload generation, as defined, unless that baseload generation complies with a greenhouse gases emission performance standard. Existing law requires the PUC, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission) and the State Air Resources Board (state board), to establish the greenhouse gases emission performance standard for all baseload generation of load-serving entities. Existing law requires the Energy Commission, at a duly noticed public hearing and in consultation with the PUC and the state board, to establish the

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

This bill would require the PUC to review any capital expenditure proposed by an electrical corporation for baseload generation that does not comply with the greenhouse gases emission performance standard established by the PUC and to not permit those costs to be recovered in rates if it finds (1) the proposed capital expenditure will materially extend the service life of the baseload generation, (2) cost-effective alternative resources not already owned or contracted for by the electrical corporation would provide superior long-term value to customers and satisfy the greenhouses gases emission performance standard, or (3) the accelerated retirement of the baseload generation unit would promote state and regional goals for the reduction of emissions of greenhouse gases.

Under existing law, an electrical corporation that provides electric service to 75,000 or fewer retail end-use customers in California may file with the PUC a proposal for alternative compliance with the greenhouse gases emission performance standard, which the PUC is authorized to accept upon a showing by the electrical corporation that (1) a majority of the electrical corporation's retail end-use customers for electric service are located outside of California and (2) the emissions of greenhouse gases to generate electricity for the retail end-use customers of the electrical corporation are subject to a review by the utility regulatory commission of at least one other state in which the electrical corporation provides regulated retail electric service.

This bill would eliminate this alternative compliance option.

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

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

- 1 SECTION 1. Section 8341 of the Public Utilities Code is
- 2 amended to read:
- 3 8341. (a) No load-serving entity or local publicly owned
- 4 electric utility may enter into a long-term financial commitment
- 5 unless any baseload generation supplied under the long-term
- 6 financial commitment complies with the greenhouse gases emission
- 7 performance standard established by the commission, pursuant to
- 8 subdivision (d), for a load-serving entity, or by the Energy

1 Commission, pursuant to subdivision (e), for a local publicly owned
2 electric utility.

3 (b) (1) The commission shall not approve a long-term financial
4 commitment by an electrical corporation unless any baseload
5 generation supplied under the long-term financial commitment
6 complies with the greenhouse gases emission performance standard
7 established by the commission pursuant to subdivision (d).

8 (2) *The commission shall review any capital expenditure*
9 *proposed by an electrical corporation for baseload generation*
10 *that does not comply with the greenhouse gases emission*
11 *performance standard established by the commission pursuant to*
12 *subdivision (d). The commission shall not permit those costs to be*
13 *recovered in rates if it finds any of the following to be true:*

14 (A) *The proposed capital expenditure will materially extend the*
15 *service life of the baseload generation.*

16 (B) *Cost-effective alternative resources not already owned or*
17 *contracted for by the electrical corporation would provide superior*
18 *long-term value to customers and satisfy the greenhouse gases*
19 *emission performance standard.*

20 (C) *The accelerated retirement of the baseload generation unit*
21 *would promote state and regional goals for the reduction of*
22 *emissions of greenhouse gases.*

23 ~~(2)~~

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

27 ~~(3)~~

28 (4) The commission shall adopt rules to enforce the requirements
29 of this section, for load-serving entities. The commission shall
30 adopt procedures, for all load-serving entities, to verify the
31 emissions of greenhouse gases from any baseload generation
32 supplied under a contract subject to the greenhouse gases emission
33 performance standard to ensure compliance with the standard.

34 ~~(4)~~

35 (5) In determining whether a long-term financial commitment
36 is for baseload generation, the commission shall consider the design
37 of the powerplant and the intended use of the powerplant, as
38 determined by the commission based upon the electricity purchase
39 contract, any certification received from the Energy Commission,
40 any other permit or certificate necessary for the operation of the

1 powerplant, including a certificate of public convenience and
2 necessity, any procurement approval decision for the load-serving
3 entity, and any other matter the commission determines is relevant
4 under the circumstances.

5 ~~(5)~~

6 (6) Costs incurred by an electrical corporation to comply with
7 this section, including those costs incurred for electricity purchase
8 agreements that are approved by the commission that comply with
9 the greenhouse gases emission performance standard, are to be
10 treated as procurement costs incurred pursuant to an approved
11 procurement plan and the commission shall ensure timely cost
12 recovery of those costs pursuant to paragraph (3) of subdivision
13 (d) of Section 454.5.

14 ~~(6)~~

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

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

29 (2) The Energy Commission may, in order to ensure compliance
30 with the greenhouse gases emission performance standard by local
31 publicly owned electric utilities, apply the procedures adopted by
32 the commission to verify the emissions of greenhouse gases from
33 baseload generation pursuant to subdivision (b).

34 (3) In determining whether a long-term financial commitment
35 is for baseload generation, the Energy Commission shall consider
36 the design of the powerplant and the intended use of the
37 powerplant, as determined by the Energy Commission based upon
38 the electricity purchase contract, any certification received from
39 the Energy Commission, any other permit for the operation of the
40 powerplant, any procurement approval decision for the load-serving

1 entity, and any other matter the Energy Commission determines
2 is relevant under the circumstances.

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

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

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

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

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

36 (6) In adopting and implementing the greenhouse gases emission
37 performance standard, the commission, in consultation with the
38 Independent System Operator shall consider the effects of the
39 standard on system reliability and overall costs to electricity
40 customers.

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

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

9 ~~(9) An electrical corporation that provides electric service to
10 75,000 or fewer retail end-use customers in California may file
11 with the commission a proposal for alternative compliance with
12 this section, which the commission may accept upon a showing
13 by the electrical corporation of both of the following:~~

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

16 ~~(B) The emissions of greenhouse gases to generate electricity
17 for the retail end-use customers of the electrical corporation are
18 subject to a review by the utility regulatory commission of at least
19 one other state in which the electrical corporation provides
20 regulated retail electric service.~~

21 (e) (1) On or before June 30, 2007, the Energy Commission,
22 at a duly noticed public hearing and in consultation with the
23 commission and the State Air Resources Board, shall establish a
24 greenhouse gases emission performance standard for all baseload
25 generation of local publicly owned electric utilities at a rate of
26 emissions of greenhouse gases that is no higher than the rate of
27 emissions of greenhouse gases for combined-cycle natural gas
28 baseload generation. The greenhouse gases emission performance
29 standard established by the Energy Commission for local publicly
30 owned electric utilities shall be consistent with the standard adopted
31 by the commission for load-serving entities. Enforcement of the
32 greenhouse gases emission performance standard shall begin
33 immediately upon the establishment of the standard. All
34 combined-cycle natural gas powerplants that are in operation, or
35 that have an Energy Commission final permit decision to operate
36 as of June 30, 2007, shall be deemed to be in compliance with the
37 greenhouse gases emission performance standard.

38 (2) The greenhouse gases emission performance standard shall
39 be adopted by regulation pursuant to the Administrative Procedure

1 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3 of Title 2 of the Government Code).

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

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

13 (5) In calculating the emissions of greenhouse gases by facilities
14 generating electricity from biomass, biogas, or landfill gas energy,
15 the Energy Commission shall consider net emissions from the
16 process of growing, processing, and generating the electricity from
17 the fuel source.

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

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

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

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

35 (f) The Energy Commission, in a duly noticed public hearing
36 and in consultation with the commission and the State Air
37 Resources Board, shall reevaluate and continue, modify, or replace
38 the greenhouse gases emission performance standard when an
39 enforceable greenhouse gases emissions limit is established and

1 in operation, that is applicable to local publicly owned electric
2 utilities.

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