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AMENDED IN ASSEMBLY MAY 24, 2004
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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2006

Introduced by Assembly Member Nunez

February 13, 2004

An act to *amend Sections 365 and 366 of, and to add Article 17 (commencing with Section 400) to Chapter 2.3 of Part 1 of Division 1 of, and to repeal Section 366 of, the Public Utilities Code, relating to electricity.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2006, as amended, Nunez. Electrical restructuring: Reliable Electric Service Act of 2004.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, ~~and~~. *Existing law* authorizes the commission to fix just and reasonable rates and charges. Under existing law, a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public. The existing Public Utilities Act requires the commission, pursuant to electrical restructuring, to authorize direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers to acquire service from certain electricity suppliers after a

period of time to be determined by the commission, until the Department of Water Resources no longer supplies electricity under that law.

This bill would *repeal the requirement that the commission authorize direct transactions between electricity suppliers and retail end-use customers and would instead* establish a core and noncore model under which the utility's noncore customers may elect to receive electric service from the electrical corporation or from an electric service provider. An electrical corporation would have no obligation to procure electricity or ~~otherwise~~ meet resource adequacy requirements for noncore customers that elect to enter into a direct transaction for the purchase of electricity. The bill would require electrical corporations to file, and for the commission to approve, a long-term *integrated* resource plan, as specified, sufficient to fulfill the utility's duty to serve while achieving best value for ratepayers *at just and reasonable rates*. The bill would provide for the recovery of ~~costs and investments~~ *initial capital investment* made pursuant to an approved long-term *integrated* resource plan. The bill would require that no costs ~~be shifted to the utility's core customers as a result of the election by noncore customers to purchase electricity through direct transactions~~ *incurred by the electrical corporation to implement direct transactions on behalf of direct access customers, shall be recovered from the utility's bundled customers. The bill would require the commission, by July 1, 2005, to prepare and submit to the Governor and the Legislature, a comprehensive plan to streamline the transmission siting process.* The bill would require the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements to ensure adequate physical generating capacity *is available, dedicated to serve all load requirements* to meet peak demand plus requisite planning and operating reserves ~~is available to reliably serve all customers~~, and would require the ~~Independent System Operator~~ *commission* to implement and enforce these resource adequacy requirements in a nondiscriminatory manner on all load serving entities, excluding a local publicly owned electric utility, *the State Water Project*, and customer generation, as defined. *The bill would require that the cost of meeting resource adequacy requirements, including the costs associated with system reliability and local area reliability, be equitably borne and recoverable from all customers on a pro rata, fully compensatory basis.* The bill would ~~require~~ *authorize* the commission to adopt ~~implementing~~ rules and regulations



implementing a core and noncore model for retail electric service meeting certain requirements, by December 31, 2005, and would require the commission to adopt rules and regulations to ensure that electrical corporations meet their obligation to provide customers with reliable electric service at just and reasonable rates.

A violation of the Public Utilities Act or an order of the commission is a crime under existing law.

Because a violation of the bill’s provisions would be a violation of the act, the bill would impose a state-mandated local program by creating a new ~~crime~~ *crimes*.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) An adequate and reliable supply of electricity is essential to
- 4 the health, safety, and welfare of all California consumers.
- 5 (b) Safe, reliable, and affordable electric service is of utmost
- 6 importance to the consumers of this state and its economy.
- 7 (c) Electrical corporations have an obligation to provide their
- 8 customers with reliable electric service at just and reasonable rates.
- 9 (d) In order to provide safe, reliable, and affordable electric
- 10 service to consumers, electrical corporations must provide needed
- 11 resources, including ~~cost-effective~~ *cost-effective* energy efficiency
- 12 and other demand reduction measures, utility-owned and procured
- 13 generation, new and repowered generation, cogeneration,
- 14 renewable generation, transmission, distribution, and an
- 15 adequately sized, well-trained workforce, in a manner that
- 16 produces the best value for ratepayers *at just and reasonable rates*.
- 17 (e) In order to ensure that investments in resources are made in
- 18 a manner that produces the best value for ratepayers, electrical
- 19 corporations should prepare a long-term *integrated* resource plan



1 for commission review and approval, that achieves a diversified
 2 portfolio of efficient, ~~cost-effective~~ *cost-effective*,
 3 *environmentally responsible* supply and demand resources.

4 (f) In order to ensure that the ~~long-term~~ *integrated* resource
 5 plan achieves a diversified portfolio of efficient, ~~cost-effective~~
 6 *cost-effective*, *environmentally responsible*, supply and demand
 7 resources, resource adequacy requirements shall be met first
 8 through ~~cost-effective~~ *cost-effective* energy efficiency and other
 9 demand reduction measures.

10 (g) In order to ensure that a long-term *integrated* resource plan
 11 will result in investments in resources sufficient to provide reliable
 12 electric service to customers of an electrical corporation without
 13 stranding costs or shifting costs, a stable and predictable customer
 14 base is necessary and essential.

15 (h) In order to attract sufficient capital to make investments in
 16 needed resources, there must be assurance that reasonable costs
 17 and investments, including a return of and on direct investments,
 18 and payments made to third parties under contract with an
 19 electrical corporation for non-utility-owned generation, are
 20 recovered in rates.

21 (i) California consumers will not receive reliable and
 22 affordable electric service, nor will consumers avoid repetition of
 23 past problems with excessive wholesale electricity prices, rolling
 24 blackouts, and long-term supply contracts that threaten consumers
 25 with billions of dollars in above-market electricity costs, unless a
 26 durable framework is enacted to ~~support investment in needed~~
 27 ~~resources.~~

28 **SEC. 2.**—*provide regulatory certainty and market stability in*
 29 *support of investment in needed efficient, cost-effective,*
 30 *environmentally responsible resources at just and reasonable*
 31 *rates.*

32 (j) *Protecting the interests of consumers by ensuring that*
 33 *investments are prudent and cost effective, should be the highest*
 34 *priority of California regulatory policy and action.*

35 (k) *It is the intent of the Legislature in enacting this act to*
 36 *pursue the goal of providing an open regulatory forum where all*
 37 *persons affected by public utility service and rates, can observe*
 38 *and participate in the decisionmaking process.*

39 **SEC. 2.** *Section 365 of the Public Utilities Code is amended*
 40 *to read:*



1 365. The actions of the commission pursuant to this chapter
2 shall be consistent with the findings and declarations contained in
3 Section 330. In addition, the commission shall ~~do all of the~~
4 ~~following:~~

5 ~~(a) Facilitate~~ *facilitate* the efforts of the state's electrical
6 corporations to develop and obtain authorization from the Federal
7 Energy Regulatory Commission for the creation and operation of
8 an Independent System Operator and an independent Power
9 Exchange, for the determination of which transmission and
10 distribution facilities are subject to the exclusive jurisdiction of the
11 commission, and for approval, to the extent necessary, of the cost
12 recovery mechanism established as provided in Sections 367 to
13 376, inclusive. The commission shall also participate fully in all
14 proceedings before the Federal Energy Regulatory Commission in
15 connection with the Independent System Operator and the
16 independent Power Exchange, and shall encourage the Federal
17 Energy Regulatory Commission to adopt protocols and
18 procedures that strengthen the reliability of the interconnected
19 transmission grid, encourage all publicly owned utilities in
20 California to become full participants, and maximize
21 enforceability of such protocols and procedures by all market
22 participants.

23 ~~(b) (1) Authorize direct transactions between electricity~~
24 ~~suppliers and end-use customers, subject to implementation of the~~
25 ~~nonbypassable charge referred to in Sections 367 to 376, inclusive.~~
26 ~~Direct transactions shall commence simultaneously with the start~~
27 ~~of an Independent System Operator and Power Exchange referred~~
28 ~~to in subdivision (a). The simultaneous commencement shall~~
29 ~~occur as soon as practicable, but no later than January 1, 1998. The~~
30 ~~commission shall develop a phase-in schedule at the conclusion of~~
31 ~~which all customers shall have the right to engage in direct~~
32 ~~transactions. Any phase-in of customer eligibility for direct~~
33 ~~transactions ordered by the commission shall be equitable to all~~
34 ~~customer classes and accomplished as soon as practicable,~~
35 ~~consistent with operational and other technological~~
36 ~~considerations, and shall be completed for all customers by~~
37 ~~January 1, 2002.~~

38 ~~(2) Customers shall be eligible for direct access irrespective of~~
39 ~~any direct access phase-in implemented pursuant to this section if~~
40 ~~at least one-half of that customer's electrical load is supplied by~~



1 energy from a renewable resource provider certified pursuant to
 2 Section 383, provided however that nothing in this section shall
 3 provide for direct access for electric consumers served by
 4 municipal utilities unless so authorized by the governing board of
 5 that municipal utility.

6 *SEC. 3. Section 366 of the Public Utilities Code is repealed.*

7 ~~366. (a) The commission shall take actions as needed to~~
 8 ~~facilitate direct transactions between electricity suppliers and~~
 9 ~~end-use customers. Customers shall be entitled to aggregate their~~
 10 ~~electrical loads on a voluntary basis, provided that each customer~~
 11 ~~does so by a positive written declaration. If no positive declaration~~
 12 ~~is made by a customer, that customer shall continue to be served~~
 13 ~~by the existing electrical corporation or its successor in interest,~~
 14 ~~except aggregation by community choice aggregators,~~
 15 ~~accomplished pursuant to Section 366.2.~~

16 ~~(b) Aggregation of customer electrical load shall be authorized~~
 17 ~~by the commission for all customer classes, including, but not~~
 18 ~~limited, to small commercial or residential customers.~~
 19 ~~Aggregation may be accomplished by private market aggregators,~~
 20 ~~special districts, or on any other basis made available by market~~
 21 ~~opportunities and agreeable by positive written declaration by~~
 22 ~~individual consumers, except aggregation by community choice~~
 23 ~~aggregators, which shall be accomplished pursuant to Section~~
 24 ~~366.2.~~

25 *SEC. 4. Article 17 (commencing with Section 400) is added*
 26 *to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code,*
 27 *to read:*

28
 29 Article 17. Reliable Electric Service Act of 2004

30
 31 400. This article shall be known, and may be cited, as the
 32 Reliable Electric Service Act of 2004.

33 400.1. (a) An electrical corporation has an obligation to
 34 ~~provide the utility's plan for and provide its~~ customers with
 35 reliable electric service at just and reasonable rates, pursuant to
 36 Section 451.

37 (b) For purposes of this article, "electric service" includes
 38 providing adequate and efficient resources, including ~~cost~~
 39 ~~effective~~ *cost-effective* energy efficiency and other demand
 40 ~~response~~ *reduction* resources, utility-owned and procured



1 generation resources, *such as* new and repowered generation
2 resources, cogeneration, renewable generation resources,
3 transmission and distribution resources, metering, billing, and
4 employing an adequately sized, well-trained utility workforce.

5 (c) Notwithstanding subdivisions (a) and (b), an electrical
6 corporation has no obligation to procure electricity or ~~otherwise~~
7 meet resource adequacy requirements for any customer that elects
8 to enter *into* a direct transaction. No costs incurred by the electrical
9 corporation ~~to serve customers that have entered into a direct~~
10 ~~transaction, shall be shifted to~~ *to implement direct transactions on*
11 *behalf of direct access customers, shall be recovered from the*
12 utility's bundled customers.

13 400.5. (a) To ensure that adequate investments are made in
14 resources necessary to provide customers with reliable electric
15 service, the commission shall authorize an electrical corporation
16 to provide efficient, ~~cost-effective resources, including cost~~
17 ~~effective~~ *cost-effective resources, including cost-effective* energy
18 efficiency and demand ~~response~~ *reduction* resources,
19 utility-owned and procured generation resources, *such as* new and
20 repowered generation resources, cogeneration, and renewable
21 generation resources, consistent with the electrical corporation's
22 procurement plan adopted pursuant to Section 454.4.

23 (b) The commission shall, after public hearing, approve and
24 thereafter maintain just and reasonable rates sufficient to ensure
25 that the electrical corporation fully recovers the ~~cost of~~
26 ~~investments~~ *initial capital investment* found reasonable by the
27 commission in the resources necessary to provide customers with
28 reliable electric service, including a reasonable opportunity to
29 fully recover a reasonable return on investment over the life of the
30 resource, in addition to costs reasonably incurred to operate and
31 maintain those resources, on a timely basis.

32 (c) The cost recovery assurance for investments in resources
33 applies to both of the following:

- 34 (1) Direct investments made by an electrical corporation.
35 (2) The electrical corporation's full costs of contracting for
36 generation resources with another entity *in accordance with*
37 *Section 454.5*, including the reasonable costs, as determined by the
38 commission, for any collateral requirements and debt equivalence.

39 (d) Nothing in this article alters the requirements of Section
40 454.5, 455.5, 463, or 1005.5.



1 (e) It is the intent of the Legislature in enacting this section to
2 ~~affirm, without requiring revision, California's traditional~~
3 ~~doctrine regarding an electrical corporation's reasonable~~
4 ~~opportunity to fully recover reasonable costs and investments, as~~
5 ~~reflected in regulatory and judicial decisions prior to 1994.~~
6 *reaffirm California's traditional regulatory compact, under which*
7 *an electrical corporation has the obligation to provide reliable*
8 *electric service at just and reasonable rates, and the commission*
9 *ensures that the electrical corporation is afforded the means to*
10 *carry out this obligation, specifically including a reasonable*
11 *opportunity to fully recover from all customers, in a manner*
12 *determined by the commission pursuant to this code, a return of,*
13 *and a reasonable return on, reasonable investments in*
14 *utility-owned generation, transmission, and distribution resources*
15 *that are necessary to meet the utility's obligation, the utility's*
16 *reasonable costs to operate and maintain those resources, and the*
17 *utility's reasonable costs for nonutility generation resources*
18 *procured in accordance with Section 454.5.*

19 400.10. (a) To ensure that adequate investments necessary to
20 meet the electrical corporation's obligation to provide reliable
21 electric service are made, every electrical corporation shall
22 prepare a long-term ~~resource plan in accordance with Section~~
23 ~~454.5~~ *integrated resource plan in accordance with Sections 454.5*
24 *and 701.1, and Article 16 (commencing with Section 399.11), to*
25 *achieve a diversified portfolio of efficient ~~cost-effective~~*
26 *cost-effective supply and demand resources to serve the utility's*
27 *customers. The plan shall include demand and supply forecasts for*
28 *5-, 10-, and 15-year periods, and shall ensure that adequate*
29 *resources are ~~available~~ identified to reliably serve the utility's*
30 *customers. The demand forecasts shall reflect energy efficiency*
31 *programs approved by the commission. The commission shall,*
32 *after public hearing, review and approve a long-term resource plan*
33 *for every electrical corporation consistent with ~~Section 454.5~~*
34 *Sections 454.5 and 701.1, and Article 16 (commencing with*
35 *Section 399.11), including those revisions to the utility filed plan*
36 *that the commission determines are necessary.*

37 (b) The plan shall provide for investments in all practicable and
38 ~~cost-effective energy efficiency and demand response resources,~~
39 ~~including load management~~ *cost-effective energy efficiency and*
40 *load management resources, that offer equivalent or better system*



1 reliability, equivalent or better environmental improvements, and
2 equivalent or lower costs to ratepayers than supply alternatives.

3 (c) The plan shall provide for investments in necessary
4 generation resources, including extensions, renewal, or
5 renegotiations of contracts for existing generation resources, new
6 or repowered generation and cogeneration projects.

7 (d) (1) The plan may provide for investments in distributed
8 generation that would improve system reliability, thereby
9 deferring or eliminating investments in distribution facilities that
10 would otherwise be needed to improve system reliability, by either
11 direct investment by the electrical corporation or under contract
12 with a third party, provided the ~~electrical corporation~~ *commission*
13 finds that the investment in distributed generation would
14 accomplish each of the following:

15 (A) Result in overall cost savings for ratepayers due to deferral
16 or elimination of electric distribution projects.

17 (B) Provide the required reliability and operational
18 characteristics to support adequate service reliability to customers
19 in the affected area.

20 (2) In cases where the distributed generation is provided under
21 contract with a third party to reduce distribution system loads, the
22 third party must maintain physical assurance that the contracted
23 load reduction will be available during all required time periods.

24 (e) The plan shall provide ~~for the continuation of the~~
25 ~~self-generation incentive program authorized pursuant to Section~~
26 ~~379.6 for ultraclean and low-emission distributed generation, as~~
27 ~~defined in Section 353.2.~~

28 (f) ~~The plan shall provide that an electrical corporation shall~~
29 ~~meet the resource adequacy requirements, by owning or~~
30 ~~contracting for sufficient physical generating capacity to meet 100~~
31 ~~percent of annual peak demand, plus requisite operating and~~
32 ~~planning reserve margins as determined by the commission, for~~
33 ~~that an electrical corporation shall meet resource adequacy~~
34 ~~requirements established by the commission pursuant to Section~~
35 ~~400.22, for the electric load served by the electrical corporation.~~
36 For purposes of this article, “electric load served by the electrical
37 corporation” does not include the electrical load of customers who
38 elect to enter into a direct transaction.

39 ~~400.15. (a) An electrical corporation’s procurement plan~~
40 ~~approved by the commission pursuant to Section 454.5, shall~~



1 ensure that the resource selection process for generation resources
2 necessary to meet resource adequacy requirements achieves best
3 value for ratepayers by considering price, reliability, stability,
4 efficiency, cost effectiveness, system impacts, resource diversity,
5 and risk.

6 ~~(b) In accordance with an electrical corporation's procurement
7 plan approved pursuant to Section 454.5, to meet resource
8 adequacy requirements each electrical corporation shall manage a
9 diversified portfolio of non-utility owned generation under
10 contract with the utility, and utility-owned generation, combining
11 the potential benefits of a competitive wholesale market, including
12 operating efficiencies and lower prices, with the stability of
13 cost-of-service generation resources, to achieve best value for
14 ratepayers.~~

15 ~~(c) In order to meet resource adequacy requirements, each
16 electrical corporation shall recommend for commission approval
17 generation resources that provide the best value for ratepayers,
18 consistent with all the following:~~

19 ~~(1) The electrical corporation shall conduct competitive
20 solicitations for nonutility generation, consistent with the
21 electrical corporation's procurement plan approved pursuant to
22 Section 454.5.~~

23 ~~(2) The electrical corporation may enter into a bilateral
24 contract for nonutility generation, consistent with the electrical
25 corporation's procurement plan approved pursuant to Section
26 454.5. Prior to approving a bilateral contract for nonutility
27 generation, the commission shall find that the contract is
28 reasonably priced relative to a market-based benchmark.~~

29 ~~(3) The electrical corporation may file for a certificate of public
30 convenience and necessity for utility-owned generation,
31 consistent with the electrical corporation's procurement plan
32 approved pursuant to Section 454.5. Prior to approving the
33 certificate of public convenience and necessity, the commission
34 shall find that the utility-owned generation is reasonably priced
35 relative to a market-based benchmark.~~

36 ~~400.18. An electrical corporation shall invest in new or
37 expanded transmission facilities and control systems that are
38 needed to ensure efficient use and reliable operation of the
39 electrical grid for customers. With respect to any new or expanded
40 electrical transmission facility for which the Independent System~~



1 ~~Operator has made a determination that the project is needed to~~
2 ~~meet reliability standards or to promote economic efficiency, that~~
3 ~~determination shall be conclusive for purposes of determining~~
4 ~~necessity when the commission determines whether to issue a~~
5 ~~certificate of public convenience and necessity pursuant to~~
6 ~~Chapter 5 (commencing with Section 1001).~~

7 ~~400.20. (a) The Legislature finds and declares all of the~~
8 ~~following:~~

9 ~~(1) To ensure that an electrical corporation can properly plan~~
10 ~~for and provide resources to reliably serve its customers without~~
11 ~~incurring stranded costs or shifting costs among customers, a~~
12 ~~stable and predictable customer base is necessary and essential.~~

13 ~~(2) A core and noncore electric service model, under which an~~
14 ~~electrical corporation is required to provide electric service to all~~
15 ~~core customers with a maximum peak demand of less than 500~~
16 ~~kilowatts on a cost-of-service basis, while noncore customers with~~
17 ~~a maximum peak demand of at least 500 kilowatts, can elect to~~
18 ~~enter into a direct transaction to purchase electricity from a~~
19 ~~nonutility electric service provider, will, if properly structured,~~
20 ~~provide this stability.~~

21 ~~(3) Under a properly structured core and noncore electric~~
22 ~~service model, a utility's core customers are indifferent to whether~~
23 ~~or not a noncore customer elects to purchase electricity from an~~
24 ~~electrical corporation or through a direct transaction.~~

25 ~~(4) To ensure indifference, the commission is required to~~
26 ~~prevent any shifting of costs to a utility's core customers, from~~
27 ~~noncore customers that elect to purchase electricity through direct~~
28 ~~transactions.~~

29 ~~(5) It is in the public interest to allow noncore customers that~~
30 ~~elect to purchase electricity through direct transactions, a safe~~
31 ~~harbor of limited duration during which they can receive~~
32 ~~electricity from an electrical corporation, provided the utility's~~
33 ~~core customers are indifferent to whether a noncore customer~~
34 ~~purchases electricity from an electrical corporation during the safe~~
35 ~~harbor period. To ensure indifference, a noncore customer should~~
36 ~~pay the higher of the incremental costs of additional short-term~~
37 ~~spot electricity procured or generated to serve them or the~~
38 ~~otherwise applicable tariff rate.~~



1 ~~400.21. On or before December 31, 2005, the commission~~
2 ~~shall adopt rules and regulations to implement a core and noncore~~
3 ~~model that accomplish all of the following:~~

4 ~~(a) Core customers, and noncore customers that do not elect to~~
5 ~~enter into a direct transaction pursuant to this section, shall receive~~
6 ~~reliable electric service from an electrical corporation on a~~
7 ~~cost of service basis.~~

8 ~~(b) Noncore customers may elect to enter into a direct~~
9 ~~transaction with a nonutility electric service provider. The electric~~
10 ~~service provider shall be fully responsible for meeting the resource~~
11 ~~adequacy requirements of the electricity load established by the~~
12 ~~commission for the customers it serves, and the long-term resource~~
13 ~~plan of the electrical corporation shall exclude the resource~~
14 ~~adequacy requirements of the electricity load serviced by an~~
15 ~~electric service provider.~~

16 ~~(c) A noncore customer that does not elect to enter into a direct~~
17 ~~transaction with a nonutility electric service provider shall be~~
18 ~~subject to a five-year rolling commitment to the electrical~~
19 ~~corporation.~~

20 ~~(d) A noncore customer that elects to enter into a direct~~
21 ~~transaction may thereafter receive default electric commodity~~
22 ~~service from the electrical corporation under terms established by~~
23 ~~the commission to ensure that a noncore customer shall pay the~~
24 ~~higher of the incremental costs of additional short-term spot~~
25 ~~electricity procured or generated to serve the noncore customer or~~
26 ~~the otherwise applicable tariff rate.~~

27 ~~(e) The commission shall adopt rules sufficient to avoid any~~
28 ~~shifting of costs to the electrical corporation's core customers that~~
29 ~~would result from noncore customers electing to purchase~~
30 ~~electricity through direct transactions. Noncore customers shall~~
31 ~~continue to pay those costs recoverable pursuant to subdivisions~~
32 ~~(d), (e), (f), and (g) of Section 366.2.~~

33 ~~(f) The commission shall adopt rules that defer new elections~~
34 ~~to enter into direct transactions for the purchase of electricity by~~
35 ~~noncore customers until the commission has approved a cost~~
36 ~~recovery mechanism that ensures that new elections by noncore~~
37 ~~customers to purchase electricity through direct transactions will~~
38 ~~not result in the underrecovery of any costs attributable to those~~
39 ~~noncore customers.~~



1 ~~(g) Customers that are purchasing electricity pursuant to a~~
2 ~~direct transaction as of January 1, 2005, including customers that~~
3 ~~qualify as core customers, may choose to continue to purchase~~
4 ~~electricity pursuant to a direct transaction or to return to service~~
5 ~~provided by the electrical corporation.~~

6 ~~(h) For purposes of this article, “core customer” means any~~
7 ~~customer with a maximum peak demand of less than 500 kilowatts.~~

8 ~~(i) For purposes of this article, “noncore customer” means any~~
9 ~~customer with a single meter with a maximum peak demand of at~~
10 ~~least 500 kilowatts.~~

11 ~~(j)–~~

12 *400.15. In accordance with an electrical corporation’s*
13 *procurement plan approved pursuant to Section 454.5, and*
14 *consistent with Section 701.1 and Article 16 (commencing with*
15 *Section 399.11), to meet resource adequacy requirements, each*
16 *electrical corporation shall manage a diversified, efficient,*
17 *cost-effective, environmentally responsible portfolio of*
18 *nonutility-owned generation under contract with the utility, and*
19 *utility-owned generation, combining the potential benefits of a*
20 *competitive wholesale market, including operating efficiencies*
21 *and lower prices, with the stability of cost-of-service generation*
22 *resources, to achieve best value for ratepayers at just and*
23 *reasonable rates.*

24 *400.18. The commission shall, on or before July 1, 2005,*
25 *prepare and submit to the Governor and the Legislature, a*
26 *comprehensive plan to streamline the transmission siting process.*
27 *The plan shall, at a minimum, include recommendations to*
28 *eliminate regulatory overlap and duplication, and*
29 *recommendations to reduce the time needed to process a request*
30 *for transmission improvements. The commission shall consult with*
31 *the State Energy Resources Conservation and Development*
32 *Commission, the Independent System Operator, electrical*
33 *corporations, and interested parties in the development and*
34 *preparation of the plan.*

35 *400.21. (a) On or before December 31, 2005, the commission*
36 *may adopt rules and regulations to implement a core and noncore*
37 *model for retail electric service, whereby core customers shall*
38 *receive reliable electric service from an electrical corporation on*
39 *a regulated basis and noncore customers may choose to assume the*
40 *full price risk of purchasing electricity from the retail electric*



1 market. The commission may implement a core and noncore model
2 on or after January 1, 2006, provided the commission has
3 implemented rules and regulations that achieve all of the
4 following:

5 (1) Permit specified electrical corporation customers with a
6 single anchor meter with a maximum peak demand of at least ____
7 kilowatts to choose to become noncore customers and to purchase
8 electricity directly from nonutility electric service providers.
9 Aggregation of additional meters on contiguous property under
10 the same ownership as the anchor meter may be permitted.

11 (2) Provide that noncore customers forgo both the benefits and
12 future incurred costs of receiving bundled electricity service from
13 the electrical corporations.

14 (3) Provide that the remaining core customers are served by the
15 electrical corporation's electricity resource portfolio.

16 (4) Require each electrical corporation to manage its
17 electricity resource portfolio for the benefit of its core customers.

18 (5) Ensure electrical corporations and core customers fully
19 compensatory and timely recovery of costs, including investments
20 in long-term resource additions to the system, originally incurred
21 to serve departing customers.

22 (6) Provide for the full recovery of existing direct access
23 customers' energy cost obligations on a schedule comparable to
24 the recovery of comparable costs from core customers.

25 (7) Provide for an election process whereby a customer with a
26 single anchor meter with a maximum peak demand of at least ____
27 kilowatts may choose to become a noncore customer. The election
28 process shall be phased in over no fewer than five years, and shall
29 include maximum annual megawatt limits on the amount of load
30 available to noncore customers for direct transactions (hereafter,
31 yearly transition cap). The yearly transition cap shall be based on
32 annual load growth and the Department of Water Resources
33 contract expirations. The commission may establish these annual
34 megawatt limits in equal annual amounts.

35 (8) Require that, at the end of the transition period, each
36 customer with a single anchor meter with a maximum peak
37 demand of at least ____ kilowatts, who has not yet elected to
38 purchase electricity directly from nonutility electric service
39 provider, must make a permanent election to either remain with the



1 *electrical corporation or to purchase electricity from a nonutility*
2 *electric service provider.*

3 (9) *Require nonutility electric service providers to comply with*
4 *the resource adequacy requirements established by the*
5 *commission pursuant to this article, to ensure that there is no*
6 *adverse effect on the reliability, cost, or availability of electricity*
7 *for core customers.*

8 (10) *Require electric service providers to meet resource*
9 *adequacy requirements by first acquiring all available*
10 *cost-effective energy efficiency and demand reduction resources,*
11 *and comply with the requirements established pursuant to Article*
12 *16 (commencing with Section 399.11).*

13 (11) *Provide for a competitively bid, provider-of-last-resort*
14 *default electric service, for noncore customers.*

15 (12) *Restrict the ability of a noncore customer to return to*
16 *electric service from the electrical corporation. In the event that*
17 *the retail market fails, and is no longer providing reliable electric*
18 *service to noncore customers, electrical corporation service to a*
19 *returning noncore customer shall be provided at a fully*
20 *compensatory rate, subject to standard contractual return*
21 *conditions that prevent any cost shifting.*

22 (13) *Demonstrate that a core and noncore model will support,*
23 *and not be detrimental to, system reliability and future investments*
24 *in electricity infrastructure and the objective of acquiring all*
25 *cost-effective energy efficiency and demand reduction resources.*

26 (14) *Provide that customers that are purchasing electricity*
27 *pursuant to a direct transaction as of January 1, 2005, including*
28 *customers that qualify as core customers, may choose to continue*
29 *to purchase electricity pursuant to a direct transaction or to return*
30 *to electric service provided by the electrical corporation. Those*
31 *customers who choose to continue to purchase electricity under a*
32 *direct transaction shall be subject to the rules established for a*
33 *noncore customer pursuant to this section. The commission may*
34 *authorize customers that are purchasing electricity pursuant to a*
35 *direct transaction as of January 1, 2005, and who choose to*
36 *continue to purchase electricity under a direct transaction*
37 *pursuant to this article, to aggregate additional meters located on*
38 *contiguous property under the customer's same ownership.*

39 (15) *Provide that the adoption of rules and regulations*
40 *required by this section, and the adoption of resource adequacy*



1 requirements pursuant to this article, are a prerequisite for the
2 implementation of a core and noncore market authorized pursuant
3 to this article.

4 (b) The commission shall annually prepare and submit to the
5 Legislature and the Governor a report detailing the status of the
6 noncore retail market established pursuant to this section,
7 including, but not limited to, the following:

8 (1) The number, type, size, and location of noncore customers,
9 including the total load electing to purchase electricity through
10 direct transactions.

11 (2) The amount of new generation capacity built to serve the
12 noncore retail market.

13 (3) The prices paid by noncore customers for electricity.

14 (c) The report shall be reviewed by an independent auditor
15 each year, who shall report to the commission, the Legislature, and
16 the Governor on any impacts on the price, availability, or
17 reliability of electricity for core customers resulting from the
18 implementation of a noncore retail market. The commission shall
19 consider the report of the independent auditor, and shall take all
20 actions necessary to ensure that core customers continue to receive
21 reliable electric service at just and reasonable rates, including, but
22 not limited to, deferring further phase in of the noncore retail
23 market until new generating capacity is built to serve the retail
24 market.

25 (d) In designating the earliest possible date for implementation
26 of a community choice aggregation program, the commission
27 shall ensure that there will be no cost-shifting or stranding of
28 investments made pursuant to a long-term *integrated* resource
29 plan of the electrical corporation that has been approved by the
30 commission pursuant to Section 454.5.

31 400.22. (a) All electrical load serving entities, including
32 nonutility electric service providers and community choice
33 aggregators, shall be subject to the same requirements for resource
34 adequacy, resource diversity, and the renewable portfolio
35 standard, ~~as applicable to electrical corporations that are~~
36 *applicable to electrical corporations pursuant to this section, as*
37 *required by other law, or as required by order or decision of the*
38 *commission.*

39 (b) The commission, in consultation with the Independent
40 System Operator, shall establish resource adequacy requirements



1 to ensure adequate physical generating capacity *dedicated to serve*
2 *all load requirements is available* to meet peak demand and
3 planning and operating reserves, ~~is available to serve all customers~~
4 ~~reliably. The Independent System Operator at a location and at a~~
5 *time as may be necessary to ensure local area reliability and*
6 *system reliability, on a least-cost-to-ratepayers basis.*

7 (c) The commission shall implement and enforce these resource
8 adequacy requirements in a nondiscriminatory manner on all load
9 serving entities. ~~Load~~

10 (d) *The cost of meeting resource adequacy requirements,*
11 *including the costs associated with system reliability and local*
12 *area reliability, shall be equitably borne by and recoverable from*
13 *all customers on a pro rata, fully compensatory basis pursuant to*
14 *rates that are just and reasonable, as determined by the*
15 *commission.*

16 (e) *Resource adequacy requirements established by the*
17 *commission shall provide for all of the following:*

18 (1) *Grid reliability.*

19 (2) *Adequate physical generating capacity dedicated to serve*
20 *all load requirements, including planning and operating reserves,*
21 *where and when it is needed.*

22 (3) *Investment in new generating capacity.*

23 (4) *Market power mitigation.*

24 (5) *Deliverability.*

25 (f) *Load serving entities may procure physical generating*
26 *capacity through a market-based mechanism. For, provided that*
27 *the mechanism achieves all of the following:*

28 (1) *Adequate generating capacity dedicated to serve all load*
29 *requirements when and where the electricity is needed, including*
30 *planning and operating reserves.*

31 (2) *Adequate investment in new generating capacity.*

32 (3) *Electricity that is purchased through the market is*
33 *deliverable to the load for which it is purchased.*

34 (4) *Reliability of the electrical grid is not impaired.*

35 (5) *A prospective market monitoring process is in place that is*
36 *sufficient to ensure a well-functioning wholesale electricity*
37 *market.*

38 (g) *The commission shall adopt rules and regulations*
39 *necessary to enforce resource adequacy requirements established*
40 *pursuant to this section. Pursuant to its authority to revoke or*



1 *suspend registration pursuant to Section 394.25, the commission*
 2 *shall suspend the registration for a specified period or revoke the*
 3 *registration, of an electric service provider that fails to comply*
 4 *with the rules and regulations adopted by the commission to*
 5 *enforce resource adequacy requirements.*

6 *(h) The commission’s implementation of resource adequacy*
 7 *requirements in accordance with this section shall be a*
 8 *prerequisite for the implementation of a core and noncore market*
 9 *authorized pursuant to this article.*

10 *(i) For purposes of this article, “load serving entity” does not*
 11 *include a local publicly owned ~~electrical~~ electric utility as defined*
 12 *in Section 9604, the State Water Resources Development System*
 13 *commonly known as the State Water Project, or customer*
 14 *generation. For purposes of this subdivision, “customer*
 15 *generation” means cogeneration, renewable technologies, or any*
 16 *other type of generation that is dedicated wholly or in part to serve*
 17 *a specific customer’s load and that relies on nonutility or dedicated*
 18 *utility distribution wires, rather than the utility grid, to serve the*
 19 *customer, the customer’s affiliates, or the customer’s tenants, or*
 20 *not more than two other persons or corporations. Those two*
 21 *persons or corporations must be located onsite or adjacent to the*
 22 *real property on which the generator is located. “Customer*
 23 *generation” includes distributed energy resources as defined in*
 24 *Section 353.1 and ultraclean and low-emission distributed*
 25 *generation as defined in Section 353.2.*

26 400.30. To ensure that the utility’s obligation to provide
 27 customers with reliable electric service at just and reasonable rates
 28 is met by an electrical corporation, the commission shall adopt
 29 rules and regulations consistent with the policies and provisions of
 30 this article.

31 400.40. Nothing in this chapter shall alter or affect any
 32 outcome of a competitive procurement process conducted by an
 33 electrical corporation pursuant to any other law, including Section
 34 454.5, prior to January 1, 2005.

35 ~~SEC. 3.—~~

36 *SEC. 5.* No reimbursement is required by this act pursuant to
 37 Section 6 of Article XIII B of the California Constitution because
 38 the only costs that may be incurred by a local agency or school
 39 district will be incurred because this act creates a new crime or
 40 infraction, eliminates a crime or infraction, or changes the penalty



1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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