AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL No. 1467

Introduced by Senator Padilla

February 19, 2010

~~An act to add Section 326 to, and to repeal Sections 389, 619, 709.7, 740.3, 740.8, and 1701.6~~ *An act to amend Sections 25217.5 and 25310 of, and to repeal the heading of Chapter 6.5 (commencing with Section 25550) of Division 15 of, the Public Resources Code, and to amend Sections 365.1, 394.27, 394.4, 394.7, 395.5, 454.1, 454.6, 1822, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2841, 2842, 2842.4, 2889.4, 2889.5, 2894, 5142, 7000, 8341, 8366, and 9607 of, to amend and renumber Sections 380, 381.2, 385.2, 454.5, 454.55, 454.56, and 635 of, to add Section 326 to, to add a heading as Chapter 5 (commencing with Section 8380) to Division 4.1 of, and to repeal Sections 389, 709.7, and 1701.6* of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1467, as amended, Padilla. Public Utilities Commission: reporting: wharfingers.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined.

This bill would correct certain existing references in the Public Utilities Code by revising "electric corporation" to "electrical corporation."

~~(1)~~

(2) Under existing law, the ~~Public Utilities Commission has regulatory authority over public utilities and~~ *PUC* may establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law requires the commission to develop, publish, and annually update an annual work plan access guide that describes the scheduled ratemaking proceedings and other decisions that may be considered by the ~~commission~~ *PUC* during the calendar year, as prescribed. Existing law requires the president of the ~~commission~~ *PUC* to annually appear before the appropriate policy committees of the Senate and Assembly to report on the annual work plan access guide and to report on the annual report of the ~~commission~~ *PUC* on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings.

This bill would revise and recast these provisions to instead require the president of the ~~commission~~ *PUC* to annually appear before these committees to report on the activities of the ~~commission~~ *PUC*, including the work plan access guide and the annual case resolution report. *The bill would additionally require the chair of the State Energy Resources Conservation and Development Commission to appear annually before these committees to report on the activities of that commission.*

~~(2)~~

(3) The California High Speed Internet Access Act of 1999 (the act), among other things, requires the ~~Public Utilities Commission~~ *PUC* to monitor and participate in a specified proceeding of the Federal Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

This bill would repeal the California High Speed Internet Access Act of 1999.

~~(3) Existing law requires the Public Utilities Commission, in cooperation with the State Energy Resources Conservation and Development Commission, the State Air Resources Board, air quality management districts and air pollution control districts, electrical and gas corporations, and the motor vehicle industry, to evaluate and implement policies to promote the development of equipment and~~

~~infrastructure needed to facilitate the use of electric power and natural gas to fuel low-emission vehicles.~~

~~This bill would repeal this requirement.~~

(4) The Public Utility Act requires the Secretary of the California Environmental Protection Agency to evaluate and recommend to the Legislature public policy strategies that address the feasibility of shifting costs from electric utility ratepayers, in whole or in part, to other classes of beneficiaries, as prescribed, and requires the secretary to prepare and submit to the Legislature an annual report, in accordance with a prescribed schedule, on the existence, status, and progress of any public policy measures for cost-shifting developed as a result of the recommendations made pursuant to those provisions.

This bill would repeal these reporting requirements.

~~(5) Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state. Chapter 369 of the Statutes of 1987 deleted wharfingers as a category of public utility under the Public Utilities Act, but did not delete the authority granted to a wharfinger under the act to condemn property necessary for the construction and maintenance of facilities for the receipt or discharge of freight or passengers.~~

~~This bill would repeal the authority of a wharfinger to condemn property.~~

(5) Existing law regulating the provision of telecommunications services requires a local exchange service provider to provide prescribed consumer protections relating to pay-per-use telephone service features and verification of changes in service providers.

This bill would revise those provisions to refer to local exchange carriers instead of local exchange service providers.

(6) Under existing law, the disclosure of any information by an interexchange telephone corporation, a local exchange telephone corporation, or a provider of commercial mobile radio service, as defined, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against specified civil actions for the wrongful disclosure of that information.

This bill would revise that reference to a local exchange telephone corporation to, instead, refer to a local exchange carrier.

(7) Under existing law, household goods carriers are subject to the jurisdiction and control of the PUC under the Household Goods Carriers Act. The act authorizes a household goods carrier to enforce a lien on household goods and personal effects in accordance with specified provisions of the act and the Uniform Commercial Code-Secured Transactions.

This bill would modify how a household goods carrier can enforce its lien by substituting procedures set forth in the Uniform Commercial Code that are applicable to the enforcement of a warehouse's lien for the existing procedures that are applicable to secured transactions. The bill would authorize a household goods carrier that disposes of goods through a lien sale to deduct, after the sale, its reasonably incurred expenses related to the sale of the goods in addition to the contract maximum total dollar amount and would require the carrier to thereafter provide, without charge, an accounting of the proceeds of the sale.

(8) This bill would make other technical and nonsubstantive changes.

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

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

SECTION 1. Section 25217.5 of the Public Resources Code is amended to read:

25217.5. The ~~chairman~~ *chair* of the commission shall ~~direct~~ *do both of the following:*

(a) Direct the adviser, the executive director, and other staff in the performance of their duties in conformance with the policies and guidelines established by the commission.

(b) Annually appear before the Senate Committee on Energy, Utilities and Communications and the Assembly Committee on Utilities and Commerce to report on the activities of the commission.

SEC. 2. Section 25310 of the Public Resources Code is amended to read:

25310. On or before November 1, 2007, and by November 1 of every third year thereafter, the commission in consultation with the Public Utilities Commission and local publicly owned electric utilities, in a public process that allows input from other stakeholders, shall develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction for the next 10-year period. The commission shall base its estimate at least in part on information developed pursuant to Sections ~~454.55, 454.56,~~ *637*, *639*, 715, 9615, and 9615.5 of the Public Utilities Code. The commission shall, for each electrical corporation and each gas corporation, include in the integrated energy policy report, a comparison of the public utility's annual targets established pursuant to Sections ~~454.55 and 454.56~~ *637 and 639*, and the public utility's actual energy efficiency savings and demand reductions.

SEC. 3. The heading of Chapter 6.5 (commencing with Section 25550) of Division 15 of the Public Resources Code is repealed.

~~Chapter 6.5. Expedited Siting of Electrical Generation~~

~~SECTION 1.~~

SEC. 4. Section 326 is added to the Public Utilities Code, to read:

326. (a) The president of the commission shall annually appear before the appropriate policy committees of the Senate and the Assembly to report on the activities of the commission, including, but not limited to, the matters described in subdivision (b).

(b) The president of the commission shall annually report on the annual work plan access guide required pursuant to Section 321.6 and on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings, as required pursuant to Section 13 of Chapter 856 of the Statutes of 1996.

~~SEC. 2.~~

SEC. 5. Section 389 of the Public Utilities Code is repealed.

~~SEC. 3. Section 619 of the Public Utilities Code is repealed.~~

SEC. 6. Section 365.1 of the Public Utilities Code is amended to read:

365.1. (a) Except as expressly authorized by this section, and subject to the limitations in subdivisions (b) and (c), the right of retail end-use customers pursuant to this chapter to acquire service from other providers is suspended until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions. For purposes of this section, "other provider" means any person, corporation, or other entity that is authorized to provide electric service within the service territory of an electrical corporation pursuant to this chapter, and includes an aggregator, broker, or marketer, as defined in Section 331, and an electric service provider, as defined in Section 218.3. “Other provider” does not include a community choice aggregator, as defined in Section 331.1, and the limitations in this section do not apply to the sale of electricity by “other providers” to a community choice aggregator for resale to community choice aggregation electricity consumers pursuant to Section 366.2.

(b) The commission shall allow individual retail nonresidential end-use customers to acquire electric service from other providers in each electrical corporation’s distribution service territory, up to a maximum allowable total kilowatthours annual limit. The maximum allowable annual limit shall be established by the commission for each electrical corporation at the maximum total kilowatthours supplied by all other providers to distribution customers of that electrical corporation during any sequential 12-month period between April 1, 1998, and the effective date of this section. Within six months of the effective date of this section, or by July 1, 2010, whichever is sooner, the commission shall adopt and implement a reopening schedule that commences immediately and will phase in the allowable amount of increased kilowatthours over a period of not less than three years, and not more than five years, raising the allowable limit of kilowatthours supplied by other providers in each electrical corporation’s distribution service territory from the number of kilowatthours provided by other providers as of the effective date of this section, to the maximum allowable annual limit for that electrical corporation’s distribution service territory. The commission shall review and, if appropriate, modify its currently effective rules governing direct transactions, but that review shall not delay the start of the phase-in schedule.

(c) Once the commission has authorized additional direct transactions pursuant to subdivision (b), it shall do both of the following:

(1) Ensure that other providers are subject to the same requirements that are applicable to the state’s three largest electrical corporations under any programs or rules adopted by the commission to implement the resource adequacy provisions of

Section ~~380~~ *635*, the renewables portfolio standard provisions of Article 16 (commencing with Section 399.11), and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code). This requirement applies notwithstanding any prior decision of the commission to the contrary.

(2) (A) Ensure that, in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the commission, to all of the following:

(i) Bundled service customers of the electrical corporation.

(ii) Customers that purchase electricity through a direct transaction with other providers.

(iii) Customers of community choice aggregators.

(B) The resource adequacy benefits of generation resources acquired by an electrical corporation pursuant to subparagraph (A) shall be allocated to all customers who pay their net capacity costs. Net capacity costs shall be determined by subtracting the energy and ancillary services value of the resource from the total costs paid by the electrical corporation pursuant to a contract with a third party or the annual revenue requirement for the resource if the electrical corporation directly owns the resource. An energy auction shall not be required as a condition for applying this allocation, but may be allowed as a means to establish the energy and ancillary services value of the resource for purposes of determining the net costs of capacity to be recovered from customers pursuant to this paragraph, and the allocation of the net capacity costs of contracts with third parties shall be allowed for the terms of those contracts.

(C) It is the intent of the Legislature, in enacting this paragraph, to provide additional guidance to the commission with respect to the implementation of subdivision (g) of Section ~~380~~ *635*, as well as to ensure that the customers to whom the net costs and benefits of capacity are allocated are not required to pay for the cost of electricity they do not consume.

(d) (1) If the commission approves a centralized resource adequacy mechanism pursuant to subdivisions (h) and (i) of Section ~~380~~ *635*, upon the implementation of the centralized resource adequacy mechanism the requirements of paragraph (2) of subdivision (c) shall be suspended. If the commission later orders that electrical corporations cease procuring capacity through a centralized resource adequacy mechanism, the requirements of paragraph (2) of subdivision (c) shall again apply.

(2) If the use of a centralized resource adequacy mechanism is authorized by the commission and has been implemented as set forth in paragraph (1), the net capacity costs of generation resources that the commission determines are required to meet urgent system or urgent local grid reliability needs, and that the commission authorizes to be procured outside of the Section ~~380~~ *635* or Section ~~454.5~~ *636* processes, shall be recovered according to the provisions of paragraph (2) of subdivision (c).

(3) Nothing in this subdivision supplants the resource adequacy requirements of Section ~~380~~ *635* or the resource procurement procedures established in Section ~~454.5~~ *636*.

(e) The commission may report to the Legislature on the efficacy of authorizing individual retail end-use residential customers to enter into direct transactions, including appropriate consumer protections.

SEC. 7. Section 380 of the Public Utilities Code is amended and renumbered to read:

~~380.~~

635. (a) The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load-serving entities.

(b) In establishing resource adequacy requirements, the commission shall achieve all of the following objectives:

(1) Facilitate development of new generating capacity and retention of existing generating capacity that is economic and needed.

(2) Equitably allocate the cost of generating capacity and prevent shifting of costs between customer classes.

(3) Minimize enforcement requirements and costs.

(c) Each load-serving entity shall maintain physical generating capacity adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity shall be deliverable to locations and at times as may be necessary to provide reliable electric service.

(d) Each load-serving entity shall, at a minimum, meet the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council.

(e) The commission shall implement and enforce the resource adequacy requirements established in accordance with this section in a nondiscriminatory manner. Each load-serving entity shall be subject to the same requirements for resource adequacy and the renewables portfolio standard program that are applicable to electrical corporations pursuant to this section, or otherwise required by law, or by order or decision of the commission. The commission shall exercise its enforcement powers to ensure compliance by all load-serving entities.

(f) The commission shall require sufficient information, including, but not limited to, anticipated load, actual load, and measures undertaken by a load-serving entity to ensure resource adequacy, to be reported to enable the commission to determine compliance with the resource adequacy requirements established by the commission.

(g) An electrical corporation's costs of meeting resource adequacy requirements, including, but not limited to, the costs associated with system reliability and local area reliability, that are determined to be reasonable by the commission, or are otherwise recoverable under a procurement plan approved by the commission pursuant to Section ~~454.5~~ *636*, shall be fully recoverable from those customers on whose behalf the costs are incurred, as determined by the commission, at the time the commitment to incur the cost is made or thereafter, on a fully nonbypassable basis, as determined by the commission. The commission shall exclude any amounts authorized to be recovered pursuant to Section 366.2 when authorizing the amount of costs to be recovered from customers of a community choice aggregator or from customers that purchase electricity through a direct transaction pursuant to this subdivision.

(h) The commission shall determine and authorize the most efficient and equitable means for achieving all of the following:

(1) Meeting the objectives of this section.

(2) Ensuring that investment is made in new generating capacity.

(3) Ensuring that existing generating capacity that is economic is retained.

(4) Ensuring that the cost of generating capacity is allocated equitably.

(i) In making the determination pursuant to subdivision (h), the commission may consider a centralized resource adequacy mechanism among other options.

(j) For purposes of this section, "load-serving entity" means an electrical corporation, electric service provider, or community choice aggregator. "Load-serving entity" does not include any of the following:

(1) A local publicly owned electric utility.

(2) The State Water Resources Development System commonly known as the State Water Project.

(3) Customer generation located on the customer's site or providing electric service through arrangements authorized by Section 218, if the customer generation, or the load it serves, meets one of the following criteria:

(A) It takes standby service from the electrical corporation on a commission-approved rate schedule that provides for adequate backup planning and operating reserves for the standby customer class.

(B) It is not physically interconnected to the electric transmission or distribution grid, so that, if the customer generation fails, backup electricity is not supplied from the electricity grid.

(C) There is physical assurance that the load served by the customer generation will be curtailed concurrently and commensurately with an outage of the customer generation.

SEC. 8. Section 381.2 of the Public Utilities Code is amended and renumbered to read:

~~381.2.~~

8380. (a) By March 1, 2010, the commission, by opening a new proceeding or amending an existing proceeding, shall investigate the ability of electrical corporations and gas corporations to provide various energy efficiency financing options to their customers for the purposes of implementing the program developed pursuant to Section 25943 of the Public Resources Code.

(b) In the report prepared pursuant to Section 384.2, the commission shall include an assessment of each electrical corporation's and each gas corporation's implementation of the program developed pursuant to Section 25943 of the Public Resources Code.

SEC. 9. Section 385.2 of the Public Utilities Code is amended and renumbered to read:

~~385.2.~~

8385. (a) Upon the completion and promulgation of regulations pursuant to subdivision (a) of Section 25943 of the Public Resources Code, each governing body of a local publicly owned electric utility, as defined in Section 224.3, shall be responsible for implementing an energy efficiency program that recognizes the intent of the Legislature to encourage energy savings and greenhouse gas emission reductions in existing residential and nonresidential buildings, while taking into consideration the effect of the program on rates, reliability, and financial resources.

(b) In the report prepared pursuant to Section 9615, each local publicly owned electric utility shall include both of the following:

(1) The utility's status in implementing an energy efficiency program pursuant to subdivision (a) and the utility's progress toward attaining the goal of the program.

(2) The net energy savings from energy efficiency improvements installed pursuant to this section.

SEC. 10. Section 394.27 of the Public Utilities Code is amended to read:

394.27. When a customer files a claim with an electrical corporation for damages to property resulting from the curtailment of electric service due to the failure of the electrical corporation to reasonably provide service or restore service within a reasonable time after a fire, flood, earthquake, other natural disaster, or act of God, the ~~electric~~ *electrical* corporation shall inform the customer that such claim may be pursued in small claims court or other judicial courts, depending on the amount of the claim.

SEC. 11. Section 394.4 of the Public Utilities Code is amended to read:

394.4. Rules that implement the following minimum standards shall be adopted by the commission for electric service providers offering electrical services to residential and small commercial customers and the governing body of a public agency offering electrical services to residential and small commercial customers within its jurisdiction:

(a) Confidentiality: Customer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit, or usage information. This requirement shall not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal customer specific information because of the size of the group, rate classification, or nature of the information.

(b) Physical disconnects and reconnects: Only an electrical corporation, or a publicly owned electric utility, that provides physical delivery service to the affected customer shall have the authority to physically disconnect or reconnect a customer from the transmission or distribution grid. Physical disconnection by electrical corporations subject to the commission's jurisdiction shall occur only in accordance with protocols established by the commission. Physical disconnection by publicly owned electric utilities shall occur only in accordance with protocols established by the governing board of the local publicly owned electric utility.

(c) Change in providers: Upon adequate notice supplied by a electric service provider to the ~~electric~~ *electrical* corporation or local publicly owned electric utility providing physical delivery service, customers who are eligible for direct access may change their energy supplier. Energy suppliers may charge for this change, provided that any fee or penalty charged by the supplier associated with early termination of service, shall be disclosed in that contract or applicable tariff.

(d) Written notices: Notices describing the terms and conditions of service as described in Section 394.5, service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices addressed to residential and small commercial customers shall be easily understandable, and shall be provided in the language in which the electric service provider offered the services.

(e) Billing: All bills shall have a standard bill format, as determined by the commission or the governing body, and shall contain sufficient detail for the customer to recalculate the bill for accuracy. Any late fees shall be separately stated. Each electric service provider shall provide on all customer bills a phone number by which customers may contact the electric service provider to report and resolve billing inquiries and complaints. An electric service provider contacted by a customer regarding a billing dispute shall advise the customer at the time of the initial contact that the customer may file a complaint with the commission if its dispute is not satisfactorily resolved by the electric service provider.

(f) Meter integrity: An electric customer shall have a reasonable opportunity to have its meter tested to ensure the reasonable accuracy of the meter. The commission or governing body shall determine who is responsible for the cost of that testing.

(g) Customer deposits: Electric service providers may require customer deposits before commencing service, but in no event shall the deposit be more than the estimated bill for the customer for a three-month period.

(h) Additional protections: The commission or the governing body may adopt additional residential and small commercial consumer protection standards that are in the public interest.

SEC. 12. Section 394.7 of the Public Utilities Code is amended to read:

394.7. (a) The commission shall maintain a list of residential and small commercial customers who do not wish to be solicited by telephone, by an ~~electric~~ *electrical* corporation, marketer, broker, or aggregator for electric service, to subscribe to or change their electric service provider. The commission shall not assess a charge for inclusion of a customer on the list. The list shall be updated periodically, but no less than quarterly.

(b) The list shall include sufficient information for ~~electric~~ *electrical* corporations, marketers, brokers, or aggregators of electric service to identify customers who do not wish to be solicited, including a customer's address and telephone number. The list shall be made accessible electronically from the commission to any party regulated as an ~~electric~~ *electrical* corporation or registered at the commission as an electric marketer, broker, or aggregator of electric service.

(c) An ~~electric~~ *electrical* corporation, marketer, broker, or aggregator of electric service shall not solicit, by telephone, any customer on the list prepared pursuant to subdivision (a). Any

~~electric~~ *electrical* corporation, marketer, broker, or aggregator of electric service, or the representative of an ~~electric~~ *electrical* corporation, marketer, broker, or aggregator of electric service, who solicits any customer on the list prepared pursuant to subdivision (a) more than once shall be liable to the customer for twenty-five dollars ($25) for each contact in violation of this subdivision.

(d) This section shall not apply to the telephone verification required pursuant to Section 366.5.

SEC. 13. Section 395.5 of the Public Utilities Code is amended to read:

395.5. (a) For purposes of this section, the following terms have the following meanings:

(1) "Nonprofit charitable organization" means any charitable organization described in Section 501(c)(3) of the federal Internal Revenue Code that has as its primary purpose serving the needs of the poor or elderly.

(2) "Electric commodity" means electricity used by the customer or a supply of electricity available for use by the customer, and does not include services associated with the transmission and distribution of electricity.

(b) Notwithstanding Section 80110 of the Water Code, a nonprofit charitable organization may acquire electric commodity service through a direct transaction with an electric service provider if electric commodity service is donated free of charge without compensation.

(c) A nonprofit charitable organization that acquires donated electric commodity service through a direct transaction pursuant to this section shall be responsible for paying all of the following:

(1) Those charges and surcharges that would be imposed upon a retail end-use customer of a community aggregator pursuant to subdivisions (d), (e), (f), and (g) of Section 366.2.

(2) The transmission and distribution charges of an electrical corporation or a local publicly owned electric utility.

(3) A nonbypassable charge imposed pursuant to Article 7 (commencing with Section 381), Article 8 (commencing with Section 385), or Article 15 (commencing with Section 399).

(4) Costs imposed upon a load-serving entity pursuant to Section ~~380~~ *635*.

(d) Existing direct access rules and all service obligations otherwise applicable to electric service providers shall govern transactions under this section.

(e) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 14. Section 454.1 of the Public Utilities Code is amended to read:

454.1. (a) Except as provided in subdivision (b), if a customer with a maximum peak electrical demand in excess of 20 kilowatts located or planning to locate within the service territory of an electrical corporation receives a bona fide offer for electric service from an irrigation district at rates less than the electrical corporation's tariffed rates, the electrical corporation may discount its noncommodity rates, but may not discount its noncommodity rates below its distribution marginal cost of serving that customer. For purposes of this subdivision, the costs of the electric commodity shall be excluded from both the irrigation district and ~~electric~~ *electrical* corporation's rates. The electrical corporation may recover any difference between its tariffed and discounted service from its remaining customers, allocated as determined by the commission. However, the reallocation may not increase rates to its remaining customers by any greater amount than the rates would be increased if the customer had taken electric distribution service from the irrigation district and the irrigation district had paid the charge established in subdivision (e) of Section 9607. Further, there shall be a firewall preventing the reallocation of such differences resulting from discounting to residential customers or to commercial customers with maximum peak demands not in excess of 20 kilowatts. The commission shall review the discounts provided under this section by each electrical corporation and report to the Legislature not later than January 15, 2003. The review shall include an assessment of the effectiveness of the discount levels and the rate impacts to customers of the discounts. The commission shall include in its report a recommendation of any changes that should be made to the discount levels in light of other commission approved discount programs.

(b) Subdivision (a) does not apply to a cumulative 75 megawatts of load served by the Merced Irrigation District, determined as follows:

(1) The load is located within the boundaries of Merced Irrigation District, as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base which was located outside the district on that date.

(2) For purposes of this section, a megawatt of load shall be calculated in accordance with the methodology established by the California Energy Resource Conservation and Development Commission in its Docket No. 96-IRR-1890.

(c) Subdivision (a) applies to the load of customers that move to the areas described in paragraph (1) of subdivision (b) after December 31, 2000, and such load shall be excluded from the calculation of the 75 megawatts in subdivision (b).

(d) If an electrical corporation seeks to apply the discounts permitted under subdivision (a) within the geographic area described in subdivision (b) of Section 9610, the electrical corporation's resulting rate for distribution service may not be less than 120 percent of the electrical corporation's marginal distribution cost of serving that customer.

SEC. 15. Section 454.5 of the Public Utilities Code is amended and renumbered to read:

~~454.5.~~

636. (a) The commission shall specify the allocation of electricity, including quantity, characteristics, and duration of electricity delivery, that the Department of Water Resources shall provide under its power purchase agreements to the customers of each electrical corporation, which shall be reflected in the electrical corporation's proposed procurement plan. Each electrical corporation shall file a proposed procurement plan with the commission not later than 60 days after the commission specifies the allocation of electricity. The proposed procurement plan shall specify the date that the electrical corporation intends to resume procurement of electricity for its retail customers, consistent with its obligation to serve. After the commission's adoption of a procurement plan, the commission shall allow not less than 60 days before the electrical corporation resumes procurement pursuant to this section.

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

(1) An assessment of the price risk associated with the electrical corporation's portfolio, including any utility-retained generation,

existing power purchase and exchange contracts, and proposed contracts or purchases under which an electrical corporation will procure electricity, electricity demand reductions, and electricity-related products and the remaining open position to be served by spot market transactions.

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

(3) The duration of the plan.

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

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

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

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

(8) Procedures for updating the procurement plan.

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

(A) The electrical corporation will, in order to fulfill its unmet resource needs and in furtherance of Section 701.3, until a 20 percent renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1 percent per year of the electricity sold by the electrical corporation is generated from renewable energy resources, provided sufficient funds are made available pursuant to Sections 399.6 and 399.15, to cover the above-market costs for new renewable energy resources.

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

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

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

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

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

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

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

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be

clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

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

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

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

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

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement

balancing account does not exceed 5 percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.

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

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

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

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

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

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

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

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

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

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

SEC. 16. Section 454.55 of the Public Utilities Code is amended and renumbered to read:

~~454.55.~~

637. The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall identify all potentially achievable cost-effective electricity efficiency savings and establish efficiency targets for an electrical corporation to achieve pursuant to Section ~~454.5~~ *636*.

SEC. 17. Section 454.56 of the Public Utilities Code is amended and renumbered to read:

~~454.56.~~

639. (a) The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall identify all potentially achievable cost-effective natural gas efficiency savings and establish efficiency targets for the gas corporation to achieve.

(b) A gas corporation shall first meet its unmet resource needs through all available natural gas efficiency and demand reduction resources that are cost effective, reliable, and feasible.

SEC. 18. Section 454.6 of the Public Utilities Code is amended to read:

454.6. (a) A contract entered into pursuant to Section ~~454.5~~ *636* by an electrical corporation for the electricity generated by a replacement or repowering project that meets the criteria specified in subdivision (b) shall be recoverable in rates, taking into account any collateral requirements and debt equivalence associated with the contract, in a manner determined by the commission to provide the best value to ratepayers.

(b) To be eligible for rate treatment in accordance with subdivision (a), a contract shall be for a project which meets all of the following criteria:

(1) The project is a replacement or repowering of an existing generation unit of a thermal powerplant.

(2) The project complies with all applicable requirements of federal, state, and local laws.

(3) The project will not require significant additional rights-of-way for electrical or fuel-related transmission facilities.

(4) The project will result in significant and substantial increases in the efficiency of the production of electricity.

(5) The Independent System Operator or local system operator certifies that the project is needed for local area reliability.

(6) The project provides electricity to consumers of this state at the cost of generating that electricity, including a reasonable return on the investment and the costs of financing the project.

SEC. 19. Section 635 of the Public Utilities Code is amended and renumbered to read:

~~635.~~

638. In a long-term plan adopted by an electrical corporation or in a procurement plan implemented by a local publicly owned electric utility, the electrical corporation or local publicly owned electric utility shall adopt a strategy applicable both to newly constructed or repowered generation owned and procured by the electrical corporation or local publicly owned electric utility to achieve efficiency in the use of fossil fuels and to address carbon emissions.

~~SEC. 4.~~

SEC. 20. Section 709.7 of the Public Utilities Code is repealed.

~~SEC. 5. Section 740.3 of the Public Utilities Code is repealed.~~

~~SEC. 6. Section 740.8 of the Public Utilities Code is repealed.~~

~~SEC. 7.~~

SEC. 21. Section 1701.6 of the Public Utilities Code is repealed.

SEC. 22. Section 1822 of the Public Utilities Code is amended to read:

1822. (a) Any computer model that is the basis for any testimony or exhibit in a hearing or proceeding before the commission shall be available to, and subject to verification by, the commission and parties to the hearing or proceedings to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, except that verification is not required for any electricity demand model or forecast prepared by the State Energy Resources Conservation and Development Commission pursuant to Section 25309 or 25402.1 of the Public Resources Code and approved and adopted after a hearing during which testimony was offered subject to cross-examination. The commission shall afford each of these electricity demand models or forecasts the evidentiary weight it determines appropriate. Nothing in this subdivision requires the State Energy Resources Conservation and Development Commission to approve or adopt any electricity demand model or forecast.

(b) Any testimony presented in a hearing or proceeding before the commission that is based in whole, or in part, on a computer model shall include a listing of all the equations and assumptions built into the model.

(c) Any data base that is used for any testimony or exhibit in a hearing or proceeding before the commission shall be reasonably accessible to the commission staff and parties to the hearing or proceeding to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, as applied in commission proceedings.

(d) The commission shall adopt rules and procedures to meet the requirements specified in subdivisions (a), (b), and (c). These rules shall include procedural safeguards that protect data bases and models not owned by the public utility.

(e) The commission shall establish appropriate procedures for determining the appropriate level of compensation for a party's access.

(f) Each party shall have access to the computer programs and models of each other party to the extent provided by Section 1822. The commission shall not require a utility to provide a remote terminal or other direct physical link to the computer systems of a utility to a third party.

(g) The commission shall verify, validate, and review the computer models of any ~~electric~~ *electrical* corporation that are used for the purpose of planning, operating, constructing, or maintaining the corporation's electricity transmission system, and that are the basis for testimony and exhibits in hearings and proceedings before the commission.

(h) The transmission computer models shall be available to, and subject to verification by, each party to a commission proceeding in accordance with subdivision (a) of Section 1822, and regulations adopted pursuant to subdivision (d) of Section 1822.

SEC. 23. Section 2791 of the Public Utilities Code is amended to read:

2791. (a) The owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents may transfer ownership and operational responsibility to the gas or ~~electric~~ *electrical* corporation providing service in the area in which the park or community is located pursuant to this chapter, or as the park or community owner and the serving gas or ~~electric~~ *electrical* corporation mutually agree.

(b) Costs, including both costs related to transfer procedures and costs related to construction, related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or ~~electric~~ *electrical* corporation, shall not be passed through to the park or community residents. Costs related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or ~~electric~~ *electrical* corporation, shall not be passed through to the gas or ~~electric~~ *electrical* corporation, except as otherwise provided in this chapter.

(c) Residents of mobilehome parks and manufactured housing communities constructed after January 1, 1997, shall be individually metered and served by gas and electric distribution facilities owned, operated, and maintained by the gas or ~~electric~~ *electrical* corporation providing the service in the area where the new park or community is located consistent with the commission's orders regarding unbundling, aggregation, master-metering, and selection of suppliers by residential customers. Each gas and ~~electric~~ *electrical* corporation shall cooperate with the owner of any park or community constructed after January 1, 1997, to ensure timely and expeditious installation of the gas and electric distribution system and to eliminate any delay in the design, construction, permitting, and operation of the gas and electric system in the park or community.

SEC. 24. Section 2792 of the Public Utilities Code is amended to read:

2792. (a) Upon receipt of a written notice of intent to transfer from the mobilehome park or manufactured housing community owner, the gas or ~~electric~~ *electrical* corporation shall within 90 days do all of the following:

(1) Meet with the park or community owner to describe the procedures involved in a transfer of ownership and operation responsibility.

(2) Perform a preliminary review of the gas or electric system, or both, in the park or community.

(3) Inspect documentation provided by the park or community owner of the construction, operation, and condition of the gas or electric system, or both.

(4) Advise the park or community owner concerning the general condition of the plant and equipment, along with a preliminary opinion concerning the extent of construction work or other activity necessary to comply with Section 2794.

(5) Offer a preliminary nonbinding estimate of the cost of transfer.

(6) Offer the park or community owner a preliminary nonbinding cost estimate to perform an engineering evaluation and estimate the construction work and equipment replacement to be performed by the gas or ~~electric~~ *electrical* corporation at the owner's expense.

(b) The gas or ~~electric~~ *electrical* corporation shall develop the cost estimate for the engineering evaluation in good faith using the same methodology as is used for similar projects. The preliminary cost estimate shall be effective for a minimum of 90 days. The gas or ~~electric~~ *electrical* corporation shall give the owner timely notice of any increase in the estimated cost of the engineering evaluation.

(c) During 1997, gas and ~~electric~~ *electrical* corporations shall make a good faith effort to respond within 90 days to the notice provided in subdivision (a).

(d) The gas or ~~electric~~ *electrical* corporation may charge a fee for the initial inspection not to exceed one hundred fifty dollars ($150).

SEC. 25. Section 2793 of the Public Utilities Code is amended to read:

2793. (a) Upon receipt from the park or community owner of a deposit representing the gas or ~~electric~~ *electrical* corporation's estimated cost of the engineering evaluation, the gas or ~~electric~~ *electrical* corporation shall, within 90 days, do all of the following:

(1) Develop an engineering plan for bringing the gas or electric system to the standard described in Section 2794, incorporating all relevant documentation including plans, drawings, engineering studies, and other existing documentation provided by the park or community owner, and considering incorporation of all portions of the gas or electric system found to be used, useful, and compatible.

(2) Develop an appraisal of the value to the gas or ~~electric~~ *electrical* corporation of the physical plant and equipment found to be used, useful, and compatible that comprise the gas or electric system, or both, to be transferred, including an estimate of the remaining useful life of the gas or electric system. The value to the gas or ~~electric~~ *electrical* corporation shall take into consideration the expenditures by the park or community owner to comply with the criteria established in Section 2794.

(3) Present a proposal, in sufficient detail to serve as a bid document for the transfer of ownership of the system to the gas or ~~electric~~ *electrical* corporation.

(b) The proposal may be based on either of the following approaches or as the park or community owner and the gas or ~~electric~~ *electrical* corporation mutually agree:

(1) The park or community owner is responsible for all construction and equipment replacement activity, if any, at the park or community owner's expense less any credits or allowances, if any, including credits or allowances based on incremental increases in the gas or ~~electric~~ *electrical* corporation's revenues

associated with the park or community owner's investment in the gas or electric system. The construction and equipment replacement and the credits and allowances shall be based on the principles established in the gas or ~~electric~~ *electrical* corporation's line and service extension rules, if applicable.

(2) The gas or ~~electric~~ *electrical* corporation shall pay the park or community owner for the appraised value to the gas or ~~electric~~ *electrical* corporation of any gas or electric distribution facilities found to be used, useful, and compatible. If any new facilities are necessary, the park or community owner shall be responsible for the costs of the excavation, installation of substructures, conduit and meter panels, and surface repairs. Except as provided in paragraph (4) of subdivision (c), the gas or ~~electric~~ *electrical* corporation shall be responsible for the costs of any additional construction and equipment replacement, including cabling and transformers.

(c) The proposal shall include the following:

(1) A description of construction and equipment replacement activity, if any, to be accomplished at the park or community owner's expense.

(2) Requirements for any additional provisions or rights for the construction or maintenance of public utility facilities on park or community premises, including easements and rights-of-way acceptable to the gas or ~~electric~~ *electrical* corporation.

(3) Any specific requirements or costs, or both, with respect to the presence of used and useful materials or equipment that are nonstandard, including, but not limited to, inventory requirements, specialized equipment requirements, or specialized personnel or training.

(4) Any specific requirements or costs, or both, with respect to the presence of exceptional construction conditions or operation and maintenance conditions.

(d) If the actual cost of the engineering evaluation is greater than the gas or ~~electric~~ *electrical* corporation estimate, the park or community owner shall pay the gas or ~~electric~~ *electrical* corporation the difference within 30 days of receipt of notice. If the actual cost of the engineering evaluation is less than the deposit, the gas or ~~electric~~ *electrical* corporation shall pay the park or community owner the difference within 30 days. The content of the proposal shall become the property of the park or community owner.

(e) Within 90 days of receipt of the proposal for transfer of ownership, a park or community owner may do any of the following:

(1) Present objections to the gas or ~~electric~~ *electrical* corporation in writing for resolution and may require mediation of the commission if the parties are unable to resolve the objection.

(2) Decline to proceed, without prejudice to the right to present a new notice at any future date.

(3) Accept the proposal and contract with the gas or ~~electric~~ *electrical* corporation for completion of the construction work and equipment replacement, if any, or the acquisition of the gas or electric system, or both.

(4) Accept the proposal and contract with an approved third party for completion of the construction work and equipment replacement, if any, in accordance with the applicable gas or ~~electric~~ *electrical* corporation applicant installation rules.

(f) Any new facilities provided by the gas or ~~electric~~ *electrical* corporation to extend distribution or service facilities from the existing gas or ~~electric~~ *electrical* corporation system within the park to previously undeveloped locations shall be provided in accordance with line extension rules and service extension rules contained in gas or ~~electric~~ *electrical* corporation tariffs filed with the commission, including any and all free extensions, allowances, and advances subject to refund.

(g) Upon completion of construction work and equipment replacement, if any, receipt of appropriate inspection approval from the gas or ~~electric~~ *electrical* corporation and authorities having jurisdiction for the inspections, and completion of all financial transactions among the parties, the park or community owner shall transfer and the gas or ~~electric~~ *electrical* corporation shall acquire ownership and operational responsibility for the gas or electric system.

(h) Upon receipt of the proposal described in paragraph (3) of subdivision (a), the park or community owner shall notify the park residents concerning the pendency of a transfer process request and the provisions of the transfer process law.

SEC. 26. Section 2794 of the Public Utilities Code is amended to read:

2794. (a) A gas or electric system shall be considered acceptable for transfer if it is in compliance with the following criteria:

(1) It is capable of providing the end users a safe and reliable source of gas or electric service.

(2) It meets the commission's general orders, is compatible, and, in the case of new construction, meets the gas or ~~electric~~ *electrical* corporation's design and construction standards insofar as they are related to safety and reliability. The parties may waive these requirements by mutual agreement and, where necessary, with commission approval. The deviations as are agreed upon may be reflected in the purchase price.

(3) It is capable of serving the customary expected load in the park or community determined in accordance with a site-specific study, studies of comparable parks or communities, industry standards, and the gas or ~~electric~~ *electrical* corporation's rules as approved by the commission.

(b) As used in this section, "customary expected load" means the anticipated level of service demanded by the dwelling units in the park or community. The park or community owner shall not be responsible for betterments or improvements to the gas or ~~electric~~ *electrical* corporation's distribution system facilities or operations that do not benefit the park or community.

(c) Satisfaction of the criteria shall not require any particular system architecture or replacement of used and useful equipment, plant, or facilities, except as needed to comply with subdivision (a). Equipment, facilities, or plant that are part of the existing gas or electric system shall be considered compatible unless their presence in the system would cause substantial increase in the frequency or duration of outages in the case of failure or emergency, or they have no remaining useful life. Pursuant to subdivision (c) of Section 2793, equipment, facilities, or plant that require special training for the gas or ~~electric~~ *electrical* corporation's employees, or require the gas or ~~electric~~ *electrical* corporation to maintain inventories of nonstandard equipment may be considered compatible, but their presence may be reflected in the appraised value or the cost imposed on the park or community owner.

SEC. 27. Section 2795 of the Public Utilities Code is amended to read:

2795. The park or community owner and the gas or ~~electric~~ *electrical* corporation shall develop a cost for the transfer of the gas or electric system that reflects the factors in Section 2793, indemnity and liability issues, and any other factors as the parties may mutually agree upon, and to which the gas or ~~electric~~ *electrical* corporation's ratepayers are indifferent. The parties may agree on a schedule for phasing in facilities to meet expected load increases and betterments, and the costs associated with those activities.

SEC. 28. Section 2796 of the Public Utilities Code is amended to read:

2796. (a) During the pendency of a transfer request, the owner of the park or community shall be responsible for the continued maintenance to preserve the integrity of the park or community gas or electric system and safe and reliable operation of the park or community system in accordance with applicable laws.

(b) During the pendency of a transfer request the owner of the park or community shall be liable for injury and damage resulting from operation of the submetered gas and electric system. After transfer the gas or ~~electric~~ *electrical* corporation shall assume responsibility for operation of the gas or electric system and provision of service to residents of the park or community and shall assume liability for any future injury or damage resulting from operation of the gas or electric system except with respect to defects known to the park or community owner and not disclosed to the gas or ~~electric~~ *electrical* corporation during the transfer of ownership process.

SEC. 29. Section 2797 of the Public Utilities Code is amended to read:

2797. The commission shall permit the gas or ~~electric~~ *electrical* corporation to recover in its revenue requirement and rates all costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems.

SEC. 30. Section 2798 of the Public Utilities Code is amended to read:

2798. The commission shall adopt a standard form of agreement for transfer of gas and electric distribution facilities in mobilehome parks and manufactured housing communities that shall be the basis for expedited approval of the transfers. The contract shall be based on this chapter, the regulations of the commission, and on gas or ~~electric~~ *electrical* corporation rules and regulations, as approved by the commission.

SEC. 31. Section 2799 of the Public Utilities Code is amended to read:

2799. (a) The mobilehome park or manufactured housing community owner may, by written notice, stop the transfer process at any time. Within 60 days of delivery to the park or community owner of an itemized bill, the owner shall reimburse the gas or ~~electric~~ *electrical* corporation for all costs incurred through the date notice is provided.

(b) At any time during the transfer of ownership process, either party may apply to the commission for informal mediation and resolution of any issue, finding, determination, or delay in the conversion process.

(c) If the initiation of the transfer process does not result in a transfer of the park or community owner's gas or electric system to the gas or ~~electric~~ *electrical* corporation, all information, data, reports, studies, and proposals shall be retained by the gas or ~~electric~~ *electrical* corporation for a period of five years or offered to the park or community owner. Prior to disposal of the records, the gas or ~~electric~~ *electrical* corporation shall offer them to the park or community owner, except that the gas or ~~electric~~ *electrical* corporation shall not be required to provide proprietary information to the park or community owner.

SEC. 32. Section 2841 of the Public Utilities Code is amended to read:

2841. (a) The commission may require an electrical corporation to purchase from an eligible customer-generator, excess electricity that is delivered to the grid that is generated by a combined heat and power system that is in compliance with Section 2843. The commission may establish a maximum kilowatthours limitation on the amount of excess electricity that an electrical corporation is required to purchase if the commission finds that the anticipated excess electricity generated has an adverse effect on long-term resource planning or reliable operation of the grid. The commission shall establish, in consultation with the Independent System Operator, tariff provisions that facilitate both the provisions of this chapter and the reliable operation of the grid.

(b) (1) Every electrical corporation shall file with the commission a standard tariff for the purchase of excess electricity from an eligible customer-generator.

(2) The tariff shall provide for payment for every kilowatthour delivered to the electrical grid by the combined heat and power system at a price determined by the commission.

(3) The tariff shall include flexible rates with options for different durations, not to exceed 10 years, and fixed or variable rates relative to the cost of natural gas.

(4) The commission shall ensure that ratepayers not utilizing combined heat and power systems are held indifferent to the existence of this tariff.

(c) The commission, in reviewing the tariff filed by an electrical corporation, shall establish time-of-delivery rates that encourage demand management and net generation of electricity during periods of peak system demand.

(d) Every electrical corporation shall make the tariff available to eligible customer-generators that own, or lease, and operate a combined heat and power system within the service territory of the electrical corporation, upon request. An electrical corporation may make the terms of the tariff available to an eligible customer in the form of a standard contract.

(e) The costs and benefits associated with any tariff or contract entered into by an electrical corporation pursuant to this section shall be allocated to all benefiting customers. For purposes of this section “benefiting customers” may, as determined by the commission, include bundled service customers of the electrical corporation, customers of the electrical corporation that receive their electric service through a direct transaction, as defined in subdivision (c) of Section 331, and customers of an electrical corporation that receive their electric service from a community choice aggregator, as defined in Section 331.1.

(f) The physical generating capacity of the combined heat and power system shall count toward the resource adequacy requirements of load-serving entities for purposes of Section ~~380~~ *635*.

(g) The commission shall adopt or maintain standby rates or charges for combined heat and power systems that are based only upon assumptions that are supported by factual data, and shall exclude any assumptions that forced outages or other reductions in electricity generation by combined heat and power systems will occur simultaneously on multiple systems, or during periods of peak electrical system demand, or both.

(h) The commission may modify or adjust the requirements of this article for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

SEC. 33. Section 2842 of the Public Utilities Code is amended to read:

2842. The commission, in approving a procurement plan for an electrical corporation pursuant to Section ~~454.5~~ *636*, shall require that the electrical corporation's procurement plan incorporate combined heat and power solutions to the extent that it is cost effective compared to other competing forms of wholesale generation, technologically feasible, and environmentally beneficial, particularly as it pertains to reducing emissions of carbon dioxide and other greenhouse gases.

SEC. 34. Section 2842.4 of the Public Utilities Code is amended to read:

2842.4. (a) The commission shall, for each electrical corporation, establish a pay-as-you-save pilot program for eligible customers.

(b) For the purposes of this section, an "eligible customer" means a customer of an electrical corporation that meets the following criteria:

(1) The customer uses a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with Section 2843.

(2) The customer is any of the following:

(A) A nonprofit organization described in Section 501(c) (3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c) (3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)).

(B) A federal, state, or local government facility.

(c) The pilot program shall enable an eligible customer to finance all of the upfront costs for the purchase and installation of a combined heat and power system by repaying those costs over time through on-bill financing at the difference between what an eligible customer would have paid for electricity and the actual savings derived for a period of up to 10 years.

(d) The commission shall ensure that the reasonable costs of the electrical corporation associated with the pilot program are recovered.

(e) All costs of the pay-as-you-save program or financing mechanisms shall be borne solely by the combined heat and power generators that use the program or financing mechanisms, and the commission shall ensure that the costs of the program are not shifted to the other customers or classes of customers of the electrical corporation.

(f) Each ~~electric~~ *electrical* corporation shall make on-bill financing available to eligible customers until the statewide cumulative rated generating capacity from pilot program combined heat and power systems in the service territories of the three largest electrical corporations in the state reaches 100 megawatts. An electrical corporation shall only be required to participate in the pilot program until it meets its proportionate share of the 100-megawatt limitation, based on the percentage of its peak demand to the total statewide peak demand within the service territories of all electrical corporations.

(g) An approval made by the Department of Finance for a state agency to purchase, lease, or otherwise acquire a combined heat and power facility that would be financed through the pay-as-you-save pilot program, may not be made sooner than 30 days after written notification thereof is provided to the Chairperson of the Senate Committee on Budget and Fiscal Review, the Chairperson of the Assembly Committee on Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine.

SEC. 35. Section 2889.4 of the Public Utilities Code is amended to read:

2889.4. (a) A local exchange ~~service provider~~ *carrier* that offers and charges for pay per use features that do not require an access code to be dialed to activate the service shall provide a new residential subscriber, including an existing residential customer ordering an additional line, during the verbal service order process, with information about those features. The representatives of a ~~provider~~ *carrier* shall offer that subscriber blocking options for those features.

(b) (1) A local exchange ~~service provider~~ *carrier* that offers the features described in subdivision (a) shall advise an existing residential subscriber who inquires about the features, or who seeks a bill adjustment for the inadvertent or unauthorized use of those per use custom calling features, that the features can be blocked and shall inquire as to whether the subscriber would like to block any or all of the features.

(2) (A) A local exchange ~~service provider~~ *carrier* that offers the features described in subdivision (a) shall provide notice to all existing residential subscribers not later than May 1, 2000, describing all features provided on a per use basis, the charge for each activation, any additional usage or other charges, and detailed information about the ability to block these features.

(B) The notice shall contain a toll-free number for further information and shall contain a noticeable postcard size bill insert that may be returned in the subscriber's bill envelope if they wish to block any or all of the per use features described in subdivision (a).

(c) A local exchange service subscriber that has not blocked per use features in accordance with this section is entitled to a one-time bill adjustment ~~which~~ *that* shall equal the sum of the charges for every incident that occurred during the first billing cycle pursuant to which the subscriber notifies the local exchange ~~service provider~~ *carrier* that inadvertent or unauthorized activation occurred with regard to those per use services that do not require coded dialing to activate. The one-time bill adjustment shall include an adjustment for any additional usage charges occurring as a result of inadvertent or unauthorized activation. The adjustment shall take the form of a credit to the subscriber's account if the existing technology or facilities of the local exchange ~~service provider~~ *carrier* measure usage and permit a usage credit to be determined and provided.

(d) Nothing in this section prohibits a local exchange ~~service provider~~ *carrier* from providing additional bill adjustments at its discretion in connection with charges imposed for features described in subdivision (a).

SEC. 36. Section 2889.5 of the Public Utilities Code is amended to read:

2889.5. (a) ~~No~~ *A* telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall *not* make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) The telephone corporation, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone corporation, its representatives or agents shall specifically establish whether the subscriber intends to make any change in his or her telephone service provider, and explain any charges associated with that change.

(3) For sales of residential service, the subscriber's decision to change his or her telephone service provider shall be confirmed by an independent third-party verification company, or as provided in paragraph (5). For purposes of this provision, the confirmation by a third-party verification company shall be made as follows:

(A) The third-party verification company shall meet each of the following criteria:

(i) Be independent from the telephone corporation that seeks to provide the subscriber's new service.

(ii) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by the telephone corporation that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the telephone corporation.

(iii) Operate from facilities physically separate from those of the telephone corporation that seeks to provide the subscriber's new service.

(iv) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone corporation seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third-party verification company to call the subscriber to confirm the sale.

(C) The third-party verification company shall obtain the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the subscriber upon request. Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the telephone corporation or its employees who are responsible for the violation.

(D) Notwithstanding subparagraphs (A), (B), and (C), a service provider shall not be required to comply with these ~~provisions~~ *verification requirements* when the customer directly calls the local service provider to make changes in service providers. However, a service provider shall not avoid the verification requirements by asking a subscribing customer to contact a local exchange ~~service provider~~ *carrier* directly to make any change in the service provider. A local exchange ~~service provider~~ *carrier* shall be required to comply with these verification requirements for its own competitive services. However, a local exchange ~~service provider~~ *carrier* shall not be required to perform any verification requirements for any changes solicited by another telephone corporation.

(4) For a sale of residential service, the telephone corporation seeking to verify the change in service, in addition to the requirements of paragraph (3), shall notify the subscriber by United States Postal Service that the subscriber's telephone service provider has been changed. The service provider that initiated the change shall send that notice within 14 days of the date of the change. The notice shall provide the subscriber with clear, legible notice of the change in service provider, and shall include a customer service telephone number for the subscriber to call if the subscriber did not authorize the change in service.

(5) Confirmation of a sale of residential service may be made using an electronic means that complies with Section 64.1120 of Title 47 of the Code of Federal Regulations in effect as of June 17, 2008.

(6) For sales of all nonresidential services, the subscriber's decision to change his or her service provider shall be confirmed through any of the following means:

(A) Independent third-party verification, as set forth in paragraph (3) ~~of subdivision (a)~~.

(B) The telephone corporation shall mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation. The information package shall describe the new service and shall include a postage prepaid postcard or mailer that the subscriber can use to deny, cancel, or confirm a service order, as soon as possible, and wait 14 days after the information package is mailed before making the change in the telephone corporation. The telephone corporation shall make the change only if the subscriber does not cancel the change in service order.

(C) Verify the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document ~~whose~~, *the* sole purpose *of which* is to explain the nature and extent of the action.

(D) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(7) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. If a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document ~~whose~~, *the* sole purpose *of which* is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(8) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(b) If a residential or business subscriber that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

"NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: $ ____."

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone corporation previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation.

(f) In addition to the liability described in subdivision (e), any telephone corporation that violates the verification procedures described in this section shall credit to a subscriber any charges paid by the subscriber in excess of the amount that the subscriber would have been obligated to pay had the subscriber's telephone service not been changed. The commission shall adopt regulations to govern credits to subscribers pursuant to this subdivision.

(g) The remedies provided by this section are in addition to any other remedies available by law.

(h) As described in federal law, no telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber without having on file, or having instituted reasonable steps designed to obtain, signed, dated orders for service from the subscriber. All orders shall be in the form prescribed in federal law for letters of agency. As described in federal law, the telephone corporation is responsible for charges associated with disputed changes in telephone service for which it cannot produce a signed, dated order for service from the subscriber. This subdivision applies to all intrastate services for which competition has been authorized.

SEC. 37. Section 2894 of the Public Utilities Code is amended to read:

2894. (a) Notwithstanding subdivision (e) of Section 2891, the disclosure of any information by an interexchange telephone corporation, a local exchange ~~telephone corporation~~ *carrier*, or a provider of commercial mobile radio service, as defined in Section 216.8, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against any civil action brought under this chapter or any other law, including, but not limited to, Chapter 1.5 (commencing with Section 630) ~~of Part 1~~ of Title 15 of *Part 1 of* the Penal Code, for the wrongful disclosure of that information.

(b) As used in this section the following terms have the following meanings:

(1) "Interexchange telephone corporation" means a telephone corporation that is a long-distance carrier.

(2) "Local exchange ~~telephone corporation"~~ *carrier"* means a telephone corporation that provides local exchange services.

SEC. 38. Section 5142 of the Public Utilities Code is amended to read:

5142. (a) Except as provided in Section 5133, a household goods carrier in compliance with this chapter has a lien on used household goods and personal effects to secure payment of the amount specified in subdivision (b) for transportation and additional services ordered by the consignor. No lien attaches to food, medicine, or medical devices, items used to treat or assist an individual with a disability, or items used for the care of a minor child.

(b) (1) The amount secured by the lien is the maximum total dollar amount for the transportation of the household goods and personal effects and any additional services (including any bona fide change order permitted under the commission's tariffs) that is set forth clearly and conspicuously in writing adjacent to the space reserved for the signature of the consignor and that is agreed to by the consignor before any goods or personal effects are moved from their location or any additional services are performed.

(2) The dollar amount for the transportation of household goods and personal effects and additional services may not be preprinted on any form, shall be just and reasonable, and shall be established

in good faith by the household goods carrier based on the specific circumstances of the services to be performed.

(c) Upon tender to the household goods carrier of the amount specified in subdivision (b), the lien is extinguished, and the household goods carrier shall release all household goods and personal effects to the consignee. *Any person having possession or control of household goods or personal effects, who knows, or through the exercise of reasonable care should know, that the household goods carrier has been tendered the amount specified in subdivision (b), shall release the household goods and personal effects to the consignor or consignee, upon the request of the consignor or consignee. If the person fails to release the household goods and personal effects to the consignor or consignee, any peace officer, as defined in subdivision (c) of Section 5133, may take custody of the household goods and personal effects and release them to the consignor or consignee.*

(d) A household goods carrier may enforce the lien on household goods and personal effects provided in this section except as to any goods that the carrier voluntarily delivers or unjustifiably refuses to deliver. The lien shall be enforced~~ in the manner provided in this section and Chapter 6 (commencing with Section 9601) of Division 9 of the Commercial Code for the enforcement of a security interest in consumer goods in a consumer transaction. To the extent of any conflict between this section and that Chapter 6, this section shall prevail. Every act required in connection with enforcing the lien shall be performed in good faith and in a commercially reasonable manner~~ *pursuant to the procedure set forth in subdivision (b) of Section 7210 of the Commercial Code*.

~~(e) The household goods carrier shall provide a notification of disposition at least 30 days prior to any disposition to each consignor and consignee by personal delivery, or in the alternative, by first-class and certified mail, postage prepaid and return receipt requested, at the address last known by the carrier and at the destination address, and by electronic mail if an electronic mail address is known to the carrier. If any of the required recipients of notice are married to each other, and according to the carrier's records, reside at the same address, one notice addressed to both shall be sufficient. Within 14 days after a disposition, the carrier shall provide to the consignors any surplus funds from the~~

~~disposition and an accounting, without charge, of the proceeds of the disposition.~~

~~(f) Any person having possession or control of household goods or personal effects, who knows, or through the exercise of reasonable care should know, that the household goods carrier has been tendered the amount specified in subdivision (b), shall release the household goods and personal effects to the consignor or consignee, upon the request of the consignor or consignee. If the person fails to release the household goods and personal effects to the consignor or consignee, any peace officer, as defined in subdivision (c) of Section 5133, may take custody of the household goods and personal effects and release them to the consignor or consignee.~~

(e) Notwithstanding subdivision (b), in the event it is necessary to auction the consignor's goods, the household goods carrier may deduct, after the sale, its reasonably incurred expenses related to the sale of the goods in addition to the contract maximum total dollar amount. Within 14 days after the sale, the carrier shall provide, without charge, an accounting of the proceeds of the sale.

~~(g)~~

(f) Nothing in this section affects any rights, if any, of a household goods carrier to claim additional amounts, on an unsecured basis, or of a consignor or consignee to make or contest any claim, and tender of payment of the amount specified in subdivision (b) is not a waiver of claims by the consignor or consignee.

~~(h)~~

(g) Any person injured by a violation of this section may bring an action for the recovery of the greater of one thousand dollars ($1,000) or actual damages, injunctive or other equitable relief, reasonable attorney's fees and costs, and exemplary damages of not less than three times the amount of actual damages for a willful violation.

~~(i)~~

(h) Any waiver of this section shall be void and unenforceable.

~~(j)~~

(i) Notwithstanding any other law, this section exclusively establishes and provides for a household goods carrier's lien on used household goods and personal effects to secure payment for transportation and additional services ordered by the consignor.

~~(k)~~

(j) For purposes of this section, the following terms have the following meaning:

(1) "Consignor" means the person named in the bill of lading as the person from whom the household goods and personal effects have been received for shipment and that person's agent.

(2) "Consignee" means the person named in the bill of lading to whom or to whose order the household goods carrier is required to make delivery as provided in the bill of lading and that person's agent.

SEC. 39. Section 7000 of the Public Utilities Code is amended to read:

7000. (a) For purposes of this chapter, a utility shall mean all of the following:

(1) An ~~electric~~ *electrical* corporation.

(2) A water corporation.

(3) A telephone corporation.

(4) A telecommunications carrier, as defined in Section 153 of Title 47 of the United States Code.

(5) A gas corporation.

(6) A local publicly owned electric utility and a publicly owned gas utility.

(7) A special district that owns or operates utilities.

(b) This chapter shall also apply to the following entities:

(1) A cable television corporation.

(2) A cable operator, as defined in Section 522 of Title 47 of the United States Code.

SEC. 40. Section 8341 of the Public Utilities Code is amended to read:

8341. (a) No load-serving entity or local publicly owned electric utility may enter into a long-term financial commitment unless any baseload 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 (e), for a local publicly owned electric utility.

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

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

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

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

(5) Costs incurred by an electrical corporation to comply with this section, including those costs incurred for electricity purchase agreements that are approved by the commission that comply with the greenhouse gases emission performance standard, are to be treated as procurement costs incurred pursuant to an approved procurement plan and the commission shall ensure timely cost recovery of those costs pursuant to paragraph (3) of subdivision (d) of Section ~~454.5~~ *636*.

(6) A long-term financial commitment entered into through a contract approved by the commission, for electricity generated by a zero- or low-carbon generating resource that is contracted for, on behalf of consumers of this state on a cost-of-service basis, shall be recoverable in rates, in a manner determined by the commission consistent with Section ~~380~~ *635*. The commission may, after a hearing, approve an increase from one-half to 1 percent in the return on investment by the third party entering into the contract with an electrical corporation with respect to investment in zero- or low-carbon generation resources authorized pursuant to this subdivision.

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

(2) The Energy Commission may, in order to ensure compliance 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.

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

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

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

(8) In developing and implementing the greenhouse gases emission performance standard, the 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.

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

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

(B) 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.

(e) (1) On or before June 30, 2007, the Energy Commission, at a duly noticed public hearing and in consultation with the commission and the State Air Resources Board, shall establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities 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. The greenhouse gases emission performance standard established by the Energy Commission for local publicly owned electric utilities shall be consistent with the standard adopted by the commission for load-serving entities. 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) The greenhouse gases emission performance standard shall be adopted by regulation pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

(4) The Energy 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.

(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.

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

(7) In adopting and implementing the greenhouse gases emission performance standard, 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, 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, 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.

SEC. 41. Section 8366 of the Public Utilities Code is amended to read:

8366. Smart grid technology may be deployed in a manner to maximize the benefit and minimize the cost to ratepayers and to achieve the benefits of smart grid technology. The commission, in consultation with the Energy Commission, the ISO, and electrical corporations, shall evaluate the impact of deployment on major initiatives and policies including:

(a) Implementation of new advanced metering initiatives.

(b) Achievement of the renewables portfolio standard program requirements and the need to operate the smart grid of the future with a substantial increased percentage of electricity generated by eligible renewable energy resources.

(c) Achievement of state goals for reducing emissions of greenhouse gases as set forth in the California Global Warming Solutions Act of 2006 and other state directives.

(d) Achievement of the energy efficiency and demand response goals as required by Sections ~~454.5 and 454.55~~ *636 and 637* and other state directives.

(e) Modernizing the aging utility grid infrastructure.

(f) Meeting the future energy growth needs of the state with new and innovative technologies and methods that utilize the existing assets more efficiently, result in a less environmentally adverse net impact on the state, meet stringent costs versus benefit assessments, and provide the ratepayers with new options in meeting their individual energy needs.

(g) Implementation of technology to improve worker safety, protection, and productivity.

SEC. 42. The heading of Chapter 5 (commencing with Section 8380) is added to Division 4.1 of the Public Utilities Code, to read:

Chapter 5. Comprehensive Energy Efficiency Program Implementation

SEC. 43. Section 9607 of the Public Utilities Code is amended to read:

9607. (a) The intent of this section is to avoid cost-shifting to customers of an electrical corporation resulting from the transfer of distribution services from an electrical corporation to an irrigation district.

(b) Except as otherwise provided in this section and Section 9608, and notwithstanding any other provision of law, an irrigation district that offered electric service to retail customers as of January 1, 1999, may not construct, lease, acquire, install, or operate facilities for the distribution or transmission of electricity to retail customers located in the service territory of an electrical corporation providing electric distribution services, unless the district has first applied for and received the approval of the commission and implements its service consistent with the commission's order. The commission shall find that service to be in the public interest and shall approve the request of a district to provide distribution or transmission of electricity to retail customers located in the service territory of an electrical corporation providing electric distribution service if, after notice and hearing, the commission determines all of the following:

(1) The district will provide universal service to all retail customers who request service within the area to be served, at published tariff rates and on a just, reasonable, and

nondiscriminatory basis, comparable to that provided by the current retail service provider.

(2) If the area the district is proposing to serve is either of the following:

(A) Is within the district's boundaries but less than the entire district, the area to be served includes a percentage of residential customers and small customers, based on load, comparable to the percentage of residential and small customers in the district, based on load.

(B) Includes territory outside the district's boundaries, in which case the territory outside the district's boundaries must include a percentage of residential customers and small customers, based on load, comparable to the percentage of residential and small customers in the county or counties where service is to be provided, based on load.

(3) Service by the district will be consistent with the intent of the state to avoid economic waste caused by duplication of facilities as set forth in Section 8101.

(4) Service by the district will include reasonable mitigation of any adverse effects on the reliability of an existing service by the electrical corporation.

(5) The district has established, funded, and is carrying out public purpose and low-income programs comparable to those provided by the current electric retail service provider.

(6) That district's tariffed electric rates, exclusive of commodity costs, will be at least 15 percent below the tariffed electric rates, exclusive of commodity costs and nonbypassable charges under Sections 367, 368, 375, 376, and 379, of the electrical corporation for comparable services.

(7) Service by the district is in the public interest.

(c) An irrigation district that obtains the approval of the commission under this section to serve an area shall prepare an annual report available to the public on the total load and number of accounts of residential, low-income, agricultural, commercial, and industrial customers served by the irrigation district in the approved service area.

(d) The commission shall have jurisdiction to resolve and adjudicate complaint cases brought against an irrigation district that offered electric service to retail customers as of January 1, 1999, by an interested party where the complaint concerns retail electric service outside the boundaries of the district and within the service territory of an electrical corporation. Nothing in this section grants the commission jurisdiction to adjudicate complaint cases involving retail electric service by an irrigation district inside its boundaries or inside an irrigation district's exclusive service territory.

(e) Any project involving electric transmission or distribution facilities to be constructed or installed by an irrigation district to serve retail customers located in the service territory of an electrical corporation providing electric distribution services shall comply with the California Environmental Quality Act, (Division 13 (commencing with Section 21000)) of the Public Resources Code. The county in which the construction or installation is to occur shall act as the lead agency. If a project involves the construction or installation of electric transmission or distribution facilities in more than one county, the county where the majority of the construction is anticipated to occur shall act as the lead agency.

(f) An irrigation district may not offer service to customers outside of its district boundaries before offering service to all customers within its district boundaries.

(g) This section does not apply to electric distribution service provided by Modesto Irrigation District to those customers or within those areas described in subdivisions (a), (b), and (c) of Section 9610.

(h) The provisions of this section shall not apply to (1) a cumulative 90 megawatts of load served by the Merced Irrigation District that is located within the boundaries of Merced Irrigation District, as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base which was located outside the District on that date, or (2) electric load served by the District which was not previously served by an ~~electric~~ *electrical* corporation that is located within the boundaries of Merced Irrigation District, as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base which was located outside the District on that date.

(i) For purposes of this section, a megawatt of load shall be calculated in accordance with the methodology established by the California Energy Resource Conservation and Development Commission in its Docket No. 96-IRR-1890, but the 90 megawatts shall not include electrical usage by customers that move to the areas described in paragraph (1) after December 31, 2000.

(j) Subdivision (a) of this section shall not apply to the construction, modification, lease, acquisition, installation, or operation of facilities for the distribution or transmission of electricity to customers electrically connected to a district as of December 31, 2000, or to other customers who subsequently locate at the same premises.

(k) In recognition of contractual arrangements and settlements existing as of June 1, 2000, this section does not apply to the acquisition or operation of the electric distribution facilities that are the subject of the Settlement Agreement dated May 1, 2000, between Pacific Gas and Electric Company and the San Joaquin Irrigation District.

(*l*) For purposes of this section, retail customers do not include an irrigation district's own electric load being served of retail by an electrical corporation.

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