

Introduced by Senator Cannella
(Principal coauthor: Assembly Member Olsen)
(Coauthors: Senators Berryhill and La Malfa)

January 11, 2012

An act to amend Sections 25740 and 25741 of, and to repeal Section 25740.5 of, the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.14, 399.15, and 399.30 of, and repeal Section 399.12.5 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as introduced, Cannella. Renewable energy resources.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. The existing Renewables Portfolio Standard Program (RPS program) requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods. The specified minimum quantities of electricity products are based upon a percentage of the utility's total retail sales of electricity in California. Pursuant to the RPS program, certain small, conduit, and repowered hydroelectric generation facilities are eligible renewable energy resources.

This bill would repeal those provisions of the RPS program making small, conduit, and repowered hydroelectric generation facilities eligible renewable energy resources. The bill would revise the RPS program so that the specified minimum quantities of electricity products required to be procured are based upon a percentage of the utility's net program

retail sales of electricity in California. The bill would define “net program retail sales” of electricity as being the total retail sales of electricity by the retail seller or local publicly owned electric utility within California, minus those retail sales where the load was met by generation from a hydroelectric generation facility. The bill would make other conforming changes.

The Renewable Energy Resources Program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020.

This bill would state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 33% of net program retail sales of electricity in California per year by December 31, 2020.

Existing law requires the State Energy Resources Conservation and Development Commission, by June 30, 2011, to study and provide a report to the Legislature that analyzes run-of-river hydroelectric generating facilities, as defined, in British Columbia, including whether these facilities are, or should be, included as renewable electrical generation facilities for purposes of the Renewable Energy Resources Program administered by the Energy Commission or eligible renewable energy resources for purposes of the RPS program.

This bill would repeal that requirement.

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

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

- 1 SECTION 1. Section 25740 of the Public Resources Code is
- 2 amended to read:
- 3 25740. It is the intent of the Legislature in establishing this
- 4 program, to increase the amount of electricity generated from
- 5 eligible renewable energy resources per year, so that it equals at
- 6 least 33 percent of ~~total~~ *net program* retail sales of electricity in
- 7 California per year by December 31, 2020. *Net program retail*
- 8 *sales are total retail sales of electricity, minus those retail sales*
- 9 *where the load was met by hydroelectric generation.*
- 10 SEC. 2. Section 25740.5 of the Public Resources Code is
- 11 repealed.

1 ~~25740.5. (a) The commission shall optimize public investment~~
2 ~~and ensure that the most cost-effective and efficient investments~~
3 ~~in renewable energy resources are vigorously pursued.~~

4 ~~(b) The commission's long-term goal shall be a fully competitive~~
5 ~~and self-sustaining supply of electricity generated from renewable~~
6 ~~sources.~~

7 ~~(c) The program objective shall be to increase, in the near term,~~
8 ~~the quantity of California's electricity generated by renewable~~
9 ~~electrical generation facilities located in this state, while protecting~~
10 ~~system reliability, fostering resource diversity, and obtaining the~~
11 ~~greatest environmental benefits for California residents.~~

12 ~~(d) An additional objective of the program shall be to identify~~
13 ~~and support emerging renewable technologies in distributed~~
14 ~~generation applications that have the greatest near-term commercial~~
15 ~~promise and that merit targeted assistance.~~

16 ~~(e) The Legislature recommends allocations among all of the~~
17 ~~following:~~

18 ~~(1) Rebates, buydowns, or equivalent incentives for emerging~~
19 ~~renewable technologies.~~

20 ~~(2) Customer education.~~

21 ~~(3) Production incentives for reducing fuel costs, that are~~
22 ~~confirmed to the satisfaction of the commission, at solid fuel~~
23 ~~biomass energy facilities in order to provide demonstrable~~
24 ~~environmental and public benefits, including improved air quality.~~

25 ~~(4) Solar thermal generating resources that enhance the~~
26 ~~environmental value or reliability of the electrical system and that~~
27 ~~require financial assistance to remain economically viable, as~~
28 ~~determined by the commission. The commission may require~~
29 ~~financial disclosure from applicants for purposes of this paragraph.~~

30 ~~(5) Specified fuel cell technologies, if the commission makes~~
31 ~~all of the following findings:~~

32 ~~(A) The specified technologies have similar or better air~~
33 ~~pollutant characteristics than renewable technologies in the report~~
34 ~~made pursuant to Section 25748.~~

35 ~~(B) The specified technologies require financial assistance to~~
36 ~~become commercially viable by reference to wholesale generation~~
37 ~~prices.~~

38 ~~(C) The specified technologies could contribute significantly~~
39 ~~to the infrastructure development or other innovation required to~~

1 meet the long-term objective of a self-sustaining, competitive
2 supply of electricity generated from renewable sources.

3 ~~(6) Existing wind-generating resources, if the commission finds~~
4 ~~that the existing wind-generating resources are a cost-effective~~
5 ~~source of reliable energy and environmental benefits compared~~
6 ~~with other renewable electrical generation facilities located in this~~
7 ~~state, and that the existing wind-generating resources require~~
8 ~~financial assistance to remain economically viable. The commission~~
9 ~~may require financial disclosure from applicants for the purposes~~
10 ~~of this paragraph.~~

11 ~~(f) Notwithstanding any other law, moneys collected for~~
12 ~~renewable energy pursuant to Article 15 (commencing with Section~~
13 ~~399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities~~
14 ~~Code shall be transferred to the Renewable Resource Trust Fund.~~
15 ~~Moneys collected between January 1, 2007, and January 1, 2012,~~
16 ~~shall be used for the purposes specified in this chapter.~~

17 SEC. 3. Section 25741 of the Public Resources Code is
18 amended to read:

19 25741. As used in this chapter, the following terms have the
20 following meaning:

21 (a) “Renewable electrical generation facility” means a facility
22 that meets all of the following criteria:

23 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
24 geothermal, fuel cells using renewable fuels, ~~small hydroelectric~~
25 ~~generation of 30 megawatts or less,~~ digester gas, municipal solid
26 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
27 current, and any additions or enhancements to the facility using
28 that technology.

29 (2) The facility satisfies one of the following requirements:

30 (A) The facility is located in the state or near the border of the
31 state with the first point of connection to the transmission network
32 of a balancing authority area primarily located within the state.
33 For purposes of this subparagraph, “balancing authority area” has
34 the same meaning as defined in Section 399.12 of the Public
35 Utilities Code.

36 (B) The facility has its first point of interconnection to the
37 transmission network outside the state, within the Western
38 Electricity Coordinating Council (WECC) service area, and
39 satisfies all of the following requirements:

1 (i) It commences initial commercial operation after January 1,
2 2005.

3 (ii) It will not cause or contribute to any violation of a California
4 environmental quality standard or requirement.

5 (iii) It participates in the accounting system to verify compliance
6 with the renewables portfolio standard once established by the
7 commission pursuant to subdivision (b) of Section 399.25 of the
8 Public Utilities Code.

9 (C) The facility meets the requirements of clauses (ii) and (iii)
10 in subparagraph (B), but does not meet the requirements of clause
11 (i) of subparagraph (B) because it commenced initial operation
12 prior to January 1, 2005, if the facility satisfies either of the
13 following requirements:

14 (i) The electricity is from incremental generation resulting from
15 expansion or repowering of the facility.

16 (ii) Electricity generated by the facility was procured by a retail
17 seller or local publicly owned electric utility as of January 1, 2010.

18 (3) If the facility is outside the United States, it is developed
19 and operated in a manner that is as protective of the environment
20 as a similar facility located in the state.

21 (b) “Municipal solid waste conversion,” as used in subdivision
22 (a), means a technology that uses a noncombustion thermal process
23 to convert solid waste to a clean-burning fuel for the purpose of
24 generating electricity, and that meets all of the following criteria:

25 (1) The technology does not use air or oxygen in the conversion
26 process, except ambient air to maintain temperature control.

27 (2) The technology produces no discharges of air contaminants
28 or emissions, including greenhouse gases as defined in Section
29 38505 of the Health and Safety Code.

30 (3) The technology produces no discharges to surface or
31 groundwaters of the state.

32 (4) The technology produces no hazardous wastes.

33 (5) To the maximum extent feasible, the technology removes
34 all recyclable materials and marketable green waste compostable
35 materials from the solid waste stream prior to the conversion
36 process and the owner or operator of the facility certifies that those
37 materials will be recycled or composted.

38 (6) The facility at which the technology is used is in compliance
39 with all applicable laws, regulations, and ordinances.

(7) The technology meets any other conditions established by the commission.

(8) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, “local agency” means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(c) “Renewable energy public goods charge” means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(d) “Report” means the report entitled “Investing in Renewable Electricity Generation in California” (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

(e) “Retail seller” means a “retail seller” as defined in Section 399.12 of the Public Utilities Code.

SEC. 4. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of generating 20 percent of ~~total~~ *net program* retail sales of electricity in California from eligible renewable energy resources by December 31, 2013, and 33 percent by December 31, 2020, it is the intent of the Legislature that the commission and the Energy Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Achieving the renewables portfolio standard through the procurement of various electricity products from eligible renewable energy resources is intended to provide unique benefits to California, including all of the following, each of which independently justifies the program:

(1) Displacing fossil fuel consumption within the state.

(2) Adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area.

(3) Reducing air pollution in the state.

1 (4) Meeting the state's climate change goals by reducing
2 emissions of greenhouse gases associated with electrical generation.

3 (5) Promoting stable retail rates for electric service.

4 (6) Meeting the state's need for a diversified and balanced
5 energy generation portfolio.

6 (7) Assistance with meeting the state's resource adequacy
7 requirements.

8 (8) Contributing to the safe and reliable operation of the
9 electrical grid, including providing predictable electrical supply,
10 voltage support, lower line losses, and congestion relief.

11 (9) Implementing the state's transmission and land use planning
12 activities related to development of eligible renewable energy
13 resources.

14 (c) The California Renewables Portfolio Standard Program is
15 intended to complement the Renewable Energy Resources Program
16 administered by the Energy Commission and established pursuant
17 to Chapter 8.6 (commencing with Section 25740) of Division 15
18 of the Public Resources Code.

19 (d) New and modified electric transmission facilities may be
20 necessary to facilitate the state achieving its renewables portfolio
21 standard targets.

22 (e) (1) Supplying electricity to California end-use customers
23 that is generated by eligible renewable energy resources is
24 necessary to improve California's air quality and public health,
25 and the commission shall ensure rates are just and reasonable, and
26 are not significantly affected by the procurement requirements of
27 this article. This electricity may be generated anywhere in the
28 interconnected grid that includes many states, and areas of both
29 Canada and Mexico.

30 (2) This article requires generating resources located outside of
31 California, but are able to supply that electricity to California
32 end-use customers, to be treated identically to generating resources
33 located within the state, without discrimination.

34 (3) California electrical corporations have already executed,
35 and the commission has approved, power purchase agreements
36 with eligible renewable energy resources located outside of
37 California that will supply electricity to California end-use
38 customers. These resources will fully count toward meeting the
39 renewables portfolio standard procurement requirements. In
40 addition, there are nearly 7,000 megawatts of additional proposed

1 renewable energy resources located outside of California that are
2 awaiting interconnection approval from the Independent System
3 Operator. All of these resources, if procured, will count as eligible
4 renewable energy resources that satisfy the portfolio content
5 requirements of paragraph (1) of subdivision (c) of Section 399.16.

6 SEC. 5. Section 399.12 of the Public Utilities Code is amended
7 to read:

8 399.12. For purposes of this article, the following terms have
9 the following meanings:

10 ~~(a) “Conduit hydroelectric facility” means a facility for the~~
11 ~~generation of electricity that uses only the hydroelectric potential~~
12 ~~of an existing pipe, ditch, flume, siphon, tunnel, canal, or other~~
13 ~~manmade conduit that is operated to distribute water for a~~
14 ~~beneficial use.~~

15 ~~(b)~~

16 (a) “Balancing authority” means the responsible entity that
17 integrates resource plans ahead of time, maintains load-interchange
18 generation balance within a balancing authority area, and supports
19 interconnection frequency in real time.

20 ~~(c)~~

21 (b) “Balancing authority area” means the collection of
22 generation, transmission, and loads within the metered boundaries
23 of the area within which the balancing authority maintains the
24 electrical load-resource balance.

25 ~~(d)~~

26 (c) “California balancing authority” is a balancing authority
27 with control over a balancing authority area primarily located in
28 this state and operating for retail sellers and local publicly owned
29 electric utilities subject to the requirements of this article and
30 includes the Independent System Operator (ISO) and a local
31 publicly owned electric utility operating a transmission grid that
32 is not under the operational control of the ISO. A California
33 balancing authority is responsible for the operation of the
34 transmission grid within its metered boundaries which may not be
35 limited by the political boundaries of the State of California.

36 ~~(e)~~

37 (d) “Eligible renewable energy resource” means an electrical
38 generating facility that meets the definition of an a “renewable
39 electrical generation facility” in Section 25741 of the Public
40 Resources Code, subject to the following:

1 ~~(1) (A) An existing small hydroelectric generation facility of~~
2 ~~30 megawatts or less shall be eligible only if a retail seller or local~~
3 ~~publicly owned electric utility procured the electricity from the~~
4 ~~facility as of December 31, 2005. A small hydroelectric generation~~
5 ~~unit with a nameplate capacity not exceeding 40 megawatts that~~
6 ~~is operated as part of a water supply or conveyance system is an~~
7 ~~eligible renewable energy resource if the retail seller or local~~
8 ~~publicly owned electric utility procured the electricity from the~~
9 ~~facility as of December 31, 2005. A new hydroelectric facility that~~
10 ~~commences generation of electricity after December 31, 2005, is~~
11 ~~not an eligible renewable energy resource if it will cause an adverse~~
12 ~~impact on instream beneficial uses or cause a change in the volume~~
13 ~~or timing of streamflow.~~

14 ~~(B) Notwithstanding subparagraph (A), a conduit hydroelectric~~
15 ~~facility of 30 megawatts or less that commenced operation before~~
16 ~~January 1, 2006, is an eligible renewable energy resource. A~~
17 ~~conduit hydroelectric facility of 30 megawatts or less that~~
18 ~~commences operation after December 31, 2005, is an eligible~~
19 ~~renewable energy resource so long as it does not cause an adverse~~
20 ~~impact on instream beneficial uses or cause a change in the volume~~
21 ~~or timing of streamflow.~~

22 ~~(C)~~
23 ~~(1) A facility approved by the governing board of a local~~
24 ~~publicly owned electric utility prior to June 1, 2010, for~~
25 ~~procurement to satisfy renewable energy procurement obligations~~
26 ~~adopted pursuant to former Section 387, shall be certified as an~~
27 ~~eligible renewable energy resource by the Energy Commission~~
28 ~~pursuant to this article, if the facility is a “renewable electrical~~
29 ~~generation facility” as defined in Section 25741 of the Public~~
30 ~~Resources Code.~~

31 ~~(2) A facility engaged in the combustion of municipal solid~~
32 ~~waste shall not be considered an eligible renewable energy resource~~
33 ~~unless it is located in Stanislaus County and was operational prior~~
34 ~~to September 26, 1996.~~

35 ~~(e) “Net program retail sales” of electricity means the total~~
36 ~~retail sales of electricity by the retail seller or local publicly owned~~
37 ~~electric utility within California, minus those retail sales where~~
38 ~~the load was met by generation from a hydroelectric generation~~
39 ~~facility.~~

40 ~~(f) “Procure” means to acquire through ownership or contract.~~

1 (g) “Procurement entity” means any person or corporation
2 authorized by the commission to enter into contracts to procure
3 eligible renewable energy resources on behalf of customers of a
4 retail seller pursuant to subdivision (f) of Section 399.13.

5 (h) (1) “Renewable energy credit” means a certificate of proof
6 associated with the generation of electricity from an eligible
7 renewable energy resource, issued through the accounting system
8 established by the Energy Commission pursuant to Section 399.25,
9 that one unit of electricity was generated and delivered by an
10 eligible renewable energy resource.

11 (2) “Renewable energy credit” includes all renewable and
12 environmental attributes associated with the production of
13 electricity from the eligible renewable energy resource, except for
14 an emissions reduction credit issued pursuant to Section 40709 of
15 the Health and Safety Code and any credits or payments associated
16 with the reduction of solid waste and treatment benefits created
17 by the utilization of biomass or biogas fuels.

18 (3) (A) An electricity generated by an eligible renewable energy
19 resource attributable to the use of nonrenewable fuels, beyond a
20 de minimis quantity used to generate electricity in the same process
21 through which the facility converts renewable fuel to electricity,
22 shall not result in the creation of a renewable energy credit. The
23 Energy Commission shall set the de minimis quantity of
24 nonrenewable fuels for each renewable energy technology at a
25 level of no more than 2 percent of the total quantity of fuel used
26 by the technology to generate electricity. The Energy Commission
27 may adjust the de minimis quantity for an individual facility, up
28 to a maximum of 5 percent, if it finds that all of the following
29 conditions are met:

30 (i) The facility demonstrates that the higher quantity of
31 nonrenewable fuel will lead to an increase in generation from the
32 eligible renewable energy facility that is significantly greater than
33 generation from the nonrenewable fuel alone.

34 (ii) The facility demonstrates that the higher quantity of
35 nonrenewable fuels will reduce the variability of its electrical
36 output in a manner that results in net environmental benefits to the
37 state.

38 (iii) The higher quantity of nonrenewable fuel is limited to either
39 natural gas or hydrogen derived by reformation of a fossil fuel.

1 ~~(B) Electricity generated by a small hydroelectric generation~~
2 ~~facility shall not result in the creation of a renewable energy credit~~
3 ~~unless the facility meets the requirements of subparagraph (A) of~~
4 ~~paragraph (1) of subdivision (e).~~

5 ~~(C) Electricity generated by a conduit hydroelectric generation~~
6 ~~facility shall not result in the creation of a renewable energy credit~~
7 ~~unless the facility meets the requirements of subparagraph (B) of~~
8 ~~paragraph (1) of subdivision (e).~~

9 ~~(D)~~

10 (B) Electricity generated by a facility engaged in the combustion
11 of municipal solid waste shall not result in the creation of a
12 renewable energy credit unless the facility meets the requirements
13 of paragraph (2) of subdivision (e).

14 (i) “Renewables portfolio standard” means the specified
15 percentage of electricity generated by eligible renewable energy
16 resources that a retail seller or a local publicly owned electric utility
17 is required to procure pursuant to this article.

18 (j) “Retail seller” means an entity engaged in the retail sale of
19 electricity to end-use customers located within the state, including
20 any of the following:

21 (1) An electrical corporation, ~~as defined in Section 218.~~

22 (2) A community choice aggregator. The commission shall
23 institute a rulemaking to determine the manner in which a
24 community choice aggregator will participate in the renewables
25 portfolio standard program subject to the same terms and conditions
26 applicable to an electrical corporation.

27 (3) ~~An electric service provider, as defined in Section 218.3,~~
28 ~~for all sales of electricity to customers beginning January 1, 2006.~~
29 The commission shall institute a rulemaking to determine the
30 manner in which electric service providers will participate in the
31 renewables portfolio standard program. The electric service
32 provider shall be subject to the same terms and conditions
33 applicable to an electrical corporation pursuant to this article. This
34 paragraph does not impair a contract entered into between an
35 electric service provider and a retail customer prior to the
36 suspension of direct access by the commission pursuant to Section
37 80110 of the Water Code.

38 (4) “Retail seller” does not include any of the following:

1 (A) A corporation or person employing cogeneration technology
2 or producing electricity consistent with subdivision (b) of Section
3 218.

4 (B) The Department of Water Resources acting in its capacity
5 pursuant to Division 27 (commencing with Section 80000) of the
6 Water Code.

7 (C) A local publicly owned electric utility.

8 (k) "WECC" means the Western Electricity Coordinating
9 Council of the North American Electric Reliability Corporation,
10 or a successor to either corporation.

11 SEC. 6. Section 399.12.5 of the Public Utilities Code is
12 repealed.

13 ~~399.12.5. (a) Notwithstanding subdivision (c) of Section~~
14 ~~399.12, a small hydroelectric generation facility that satisfies the~~
15 ~~criteria for an eligible renewable energy resource pursuant to~~
16 ~~Section 399.12 shall not lose its eligibility if efficiency~~
17 ~~improvements undertaken after January 1, 2008, cause the~~
18 ~~generating capacity of the facility to exceed 30 megawatts, and~~
19 ~~the efficiency improvements do not result in an adverse impact on~~
20 ~~instream beneficial uses or cause a change in the volume or timing~~
21 ~~of streamflow. The entire generating capacity of the facility shall~~
22 ~~be eligible.~~

23 ~~(b) Notwithstanding subdivision (c) of Section 399.12, the~~
24 ~~incremental increase in the amount of electricity generated from~~
25 ~~a hydroelectric generation facility as a result of efficiency~~
26 ~~improvements at the facility, is electricity from an eligible~~
27 ~~renewable energy resource, without regard to the electrical output~~
28 ~~of the facility, if all of the following conditions are met:~~

29 ~~(1) The incremental increase is the result of efficiency~~
30 ~~improvements from a retrofit that do not result in an adverse impact~~
31 ~~on instream beneficial uses or cause a change in the volume or~~
32 ~~timing of streamflow.~~

33 ~~(2) The hydroelectric generation facility meets one of the~~
34 ~~following certification mechanisms:~~

35 ~~(A) The hydroelectric generation facility has, within the~~
36 ~~immediately preceding 15 years, received certification from the~~
37 ~~State Water Resources Control Board pursuant to Section 401 of~~
38 ~~the federal Clean Water Act (33 U.S.C. Sec. 1341), or has received~~
39 ~~certification from a regional board to which the state board has~~
40 ~~delegated authority to issue certification, unless the facility is not~~

1 subject to certification because there is no potential for discharge
2 into waters of the United States.

3 (B) If the hydroelectric facility is not located in California, the
4 certification pursuant to Section 401 of the federal Clean Water
5 Act (33 U.S.C. Sec. 1341) may be received from the applicable
6 state board or agency or from a regional board to which the state
7 board has delegated authority to issue the certification.

8 (C) If the hydroelectric generation facility is the Rock Creek
9 Powerhouse, Federal Energy Regulatory Commission Project
10 Number 1962, the efficiency improvements have received any
11 necessary incremental certification from the State Water Resources
12 Control Board.

13 (3) The hydroelectric generation facility is owned by a retail
14 seller or a local publicly owned electric utility, was operational
15 prior to January 1, 2007, the efficiency improvements are initiated
16 on or after January 1, 2008, the efficiency improvements are not
17 the result of routine maintenance activities, as determined by the
18 Energy Commission, and the efficiency improvements were not
19 included in any resource plan sponsored by the facility owner prior
20 to January 1, 2008.

21 (4) All of the incremental increase in electricity resulting from
22 the efficiency improvements are demonstrated to result from a
23 long-term financial commitment by the retail seller or local publicly
24 owned electric utility. For purposes of this paragraph, "long-term
25 financial commitment" means either new ownership investment
26 in the facility by the retail seller or local publicly owned electric
27 utility or a new or renewed contract with a term of 10 or more
28 years, which includes procurement of the incremental generation.

29 (c) The incremental increase in the amount of electricity
30 generated from a hydroelectric generation facility as a result of
31 efficiency improvements at the facility are not eligible for
32 supplemental energy payments pursuant to the Renewable Energy
33 Resources Program (Chapter 8.6 (commencing with Section 25740)
34 of Division 15 of the Public Resources Code), or a successor
35 program.

36 (d) Notwithstanding subdivision (c) of Section 399.12 and
37 subdivisions (a) and (b), a hydroelectric generation facility that is
38 an eligible renewable energy resource pursuant to this article as
39 of January 1, 2010, shall not lose its eligibility if the facility causes
40 a change in the volume or timing of streamflow required by license

1 conditions approved pursuant to the Federal Power Act (Chapter
2 12 (commencing with Section 791a) of Title 16 of the United States
3 Code) on or after January 1, 2010.

4 SEC. 7. Section 399.13 of the Public Utilities Code is amended
5 to read:

6 399.13. (a) (1) The commission shall direct each electrical
7 corporation to annually prepare a renewable energy procurement
8 plan that includes the matter in paragraph (5), to satisfy its
9 obligations under the renewables portfolio standard. To the extent
10 feasible, this procurement plan shall be proposed, reviewed, and
11 adopted by the commission as part of, and pursuant to, a general
12 procurement plan process. The commission shall require each
13 electrical corporation to review and update its renewable energy
14 procurement plan as it determines to be necessary.

15 (2) Every electrical corporation that owns electrical transmission
16 facilities shall annually prepare, as part of the Federal Energy
17 Regulatory Commission Order 890 process, and submit to the
18 commission, a report identifying any electrical transmission
19 facility, upgrade, or enhancement that is reasonably necessary to
20 achieve the renewables portfolio standard procurement
21 requirements of this article. Each report shall look forward at least
22 five years and, to ensure that adequate investments are made in a
23 timely manner, shall include a preliminary schedule when an
24 application for a certificate of public convenience and necessity
25 will be made, pursuant to Chapter 5 (commencing with Section
26 1001), for any electrical transmission facility identified as being
27 reasonably necessary to achieve the renewable energy resources
28 procurement requirements of this article. Each electrical
29 corporation that owns electrical transmission facilities shall ensure
30 that project-specific interconnection studies are completed in a
31 timely manner.

32 (3) The commission shall direct each retail seller to prepare and
33 submit an annual compliance report that includes all of the
34 following:

35 (A) The current status and progress made during the prior year
36 toward procurement of eligible renewable energy resources as a
37 percentage of *net program* retail sales, including, if applicable, the
38 status of any necessary siting and permitting approvals from
39 federal, state, and local agencies for those eligible renewable energy
40 resources procured by the retail seller, and the current status of

1 compliance with the portfolio content requirements of subdivision
2 (c) of Section 399.16, including procurement of eligible renewable
3 energy resources located outside the state and within the WECC
4 and unbundled renewable energy credits.

5 (B) If the retail seller is an electrical corporation, the current
6 status and progress made during the prior year toward construction
7 of, and upgrades to, transmission and distribution facilities and
8 other electrical system components it owns to interconnect eligible
9 renewable energy resources and to supply the electricity generated
10 by those resources to load, including the status of planning, siting,
11 and permitting transmission facilities by federal, state, and local
12 agencies.

13 (C) Recommendations to remove impediments to making
14 progress toward achieving the renewable energy resources
15 procurement requirements established pursuant to this article.

16 (4) The commission shall adopt, by rulemaking, all of the
17 following:

18 (A) A process that provides criteria for the rank ordering and
19 selection of least-cost and best-fit eligible renewable energy
20 resources to comply with the California Renewables Portfolio
21 Standard Program obligations on a total cost basis. This process
22 shall take into account all of the following:

23 (i) Estimates of indirect costs associated with needed
24 transmission investments and ongoing electrical corporation
25 expenses resulting from integrating and operating eligible
26 renewable energy resources.

27 (ii) The cost impact of procuring the eligible renewable energy
28 resources on the electrical corporation's electricity portfolio.

29 (iii) The viability of the project to construct and reliably operate
30 the eligible renewable energy resource, including the developer's
31 experience, the feasibility of the technology used to generate
32 electricity, and the risk that the facility will not be built, or that
33 construction will be delayed, with the result that electricity will
34 not be supplied as required by the contract.

35 (iv) Workforce recruitment, training, and retention efforts,
36 including the employment growth associated with the construction
37 and operation of eligible renewable energy resources and goals
38 for recruitment and training of women, minorities, and disabled
39 veterans.

(B) Rules permitting retail sellers to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period. The rules shall apply equally to all retail sellers. In determining the quantity of excess procurement for the applicable compliance period, the commission shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than 10 years in duration. In no event shall electricity products meeting the portfolio content of paragraph (3) of subdivision (b) of Section 399.16 be counted as excess procurement.

(C) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource, at a minimum, shall include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(D) An appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled. This paragraph does not preclude an electrical corporation from voluntarily proposing a margin of procurement above the appropriate minimum margin established by the commission.

(5) Consistent with the goal of increasing California's reliance on eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Potential compliance delays related to the conditions described in paragraph (4) of subdivision (b) of Section 399.15.

1 (C) A bid solicitation setting forth the need for eligible
2 renewable energy resources of each deliverability characteristic,
3 required online dates, and locational preferences, if any.

4 (D) A status update on the development schedule of all eligible
5 renewable energy resources currently under contract.

6 (E) Consideration of mechanisms for price adjustments
7 associated with the costs of key components for eligible renewable
8 energy resource projects with online dates more than 24 months
9 after the date of contract execution.

10 (F) An assessment of the risk that an eligible renewable energy
11 resource will not be built, or that construction will be delayed,
12 with the result that electricity will not be delivered as required by
13 the contract.

14 (6) In soliciting and procuring eligible renewable energy
15 resources, each electrical corporation shall offer contracts of no
16 less than 10 years duration, unless the commission approves of a
17 contract of shorter duration.

18 (7) In soliciting and procuring eligible renewable energy
19 resources for California-based projects, each electrical corporation
20 shall give preference to renewable energy projects that provide
21 environmental and economic benefits to communities afflicted
22 with poverty or high unemployment, or that suffer from high
23 emission levels of toxic air contaminants, criteria air pollutants,
24 and greenhouse gases.

25 (b) A retail seller may enter into a combination of long- and
26 short-term contracts for electricity and associated renewable energy
27 credits. The commission may authorize a retail seller to enter into
28 a contract of less than 10 years' duration with an eligible renewable
29 energy resource, if the commission has established, for each retail
30 seller, minimum quantities of eligible renewable energy resources
31 to be procured through contracts of at least 10 years' duration.

32 (c) The commission shall review and accept, modify, or reject
33 each electrical corporation's renewable energy resource
34 procurement plan prior to the commencement of renewable energy
35 procurement pursuant to this article by an electrical corporation.

36 (d) Unless previously preapproved by the commission, an
37 electrical corporation shall submit a contract for the generation of
38 an eligible renewable energy resource to the commission for review
39 and approval consistent with an approved renewable energy
40 resource procurement plan. If the commission determines that the

1 bid prices are elevated due to a lack of effective competition among
2 the bidders, the commission shall direct the electrical corporation
3 to renegotiate the contracts or conduct a new solicitation.

4 (e) If an electrical corporation fails to comply with a commission
5 order adopting a renewable energy resource procurement plan, the
6 commission shall exercise its authority pursuant to Section 2113
7 to require compliance. The commission shall enforce comparable
8 penalties on any retail seller that is not an electrical corporation
9 that fails to meet the procurement targets established pursuant to
10 Section 399.15.

11 (f) (1) The commission may authorize a procurement entity to
12 enter into contracts on behalf of customers of a retail seller for
13 electricity products from eligible renewable energy resources to
14 satisfy the retail seller's renewables portfolio standard procurement
15 requirements. The commission shall not require any person or
16 corporation to act as a procurement entity or require any party to
17 purchase eligible renewable energy resources from a procurement
18 entity.

19 (2) Subject to review and approval by the commission, the
20 procurement entity shall be permitted to recover reasonable
21 administrative and procurement costs through the retail rates of
22 end-use customers that are served by the procurement entity and
23 are directly benefiting from the procurement of eligible renewable
24 energy resources.

25 (g) Procurement and administrative costs associated with
26 contracts entered into by an electrical corporation for eligible
27 renewable energy resources pursuant to this article and approved
28 by the commission are reasonable and prudent and shall be
29 recoverable in rates.

30 (h) Construction, alteration, demolition, installation, and repair
31 work on an eligible renewable energy resource that receives
32 production incentives pursuant to Section 25742 of the Public
33 Resources Code, including work performed to qualify, receive, or
34 maintain production incentives, are "public works" for the purposes
35 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
36 2 of the Labor Code.

37 SEC. 8. Section 399.14 of the Public Utilities Code is amended
38 to read:

39 399.14. (a) (1) An electrical corporation, pursuant to Chapter
40 5 (commencing with Section 1001), and in order to meet its unmet

1 renewables portfolio standard procurement requirements, may
2 apply to the commission for approval to construct, own, and operate
3 an eligible renewable energy resource.

4 (2) If the proposed eligible renewable energy resource complies
5 with the requirements of subdivision (b), the commission shall
6 approve an application filed pursuant to paragraph (1), until the
7 commission has approved applications for eligible renewable
8 energy resources for the electrical corporation that, when
9 constructed and operating, will provide 8.25 percent of the
10 electrical corporation's anticipated *net program* retail sales by
11 December 31, 2020, and thereafter.

12 (3) The commission may approve additional applications for
13 eligible renewable energy resources once the commission has
14 approved sufficient applications for eligible renewable energy
15 resources for the electrical corporation that, when constructed and
16 operating, will provide 8.25 percent of the electrical corporation's
17 anticipated *net program* retail sales by December 31, 2020, and
18 thereafter.

19 (b) The commission shall not approve any application by an
20 electrical corporation pursuant to subdivision (a) unless both of
21 the following conditions are met:

22 (1) The eligible renewable energy resource utilizes a viable
23 technology at a reasonable cost.

24 (2) The eligible renewable energy resource provides comparable
25 or superior value to ratepayers when compared to then recent
26 contracts for generation provided by eligible renewable energy
27 resources.

28 (c) In approving any application by an electrical corporation
29 for approval to construct, own, and operate an eligible renewable
30 energy resource, the commission shall apply traditional
31 cost-of-service ratemaking. When applying traditional
32 cost-of-service ratemaking, the commission, in the certificate
33 authorizing the new construction, shall specify the maximum cost
34 determined to be reasonable and prudent for the construction of
35 the facility and the cost of initial operation of the facility. Upon a
36 filing by the electrical corporation, the commission may authorize
37 an increase in the maximum cost of construction if it determines
38 that the cost has in fact increased, that the cost increase is
39 determined to be reasonable and prudent, and that the present or

1 future public convenience or necessity require construction of the
2 project at the increased cost.

3 SEC. 9. Section 399.15 of the Public Utilities Code is amended
4 to read:

5 399.15. (a) In order to fulfill unmet long-term resource needs,
6 the commission shall establish a renewables portfolio standard
7 requiring all retail sellers to procure a minimum quantity of
8 electricity products from eligible renewable energy resources as
9 a specified percentage of total kilowatthours sold to their retail
10 end-use customers each compliance period to achieve the targets
11 established under this article. For any retail seller procuring at least
12 14 percent of *total* retail sales from eligible renewable energy
13 resources in 2010, the deficits associated with any previous
14 renewables portfolio standard shall not be added to any
15 procurement requirement pursuant to this article.

16 (b) The commission shall implement renewables portfolio
17 standard procurement requirements only as follows:

18 (1) Each retail seller shall procure a minimum quantity of
19 eligible renewable energy resources for each of the following
20 compliance periods:

21 (A) January 1, 2011, to December 31, 2013, inclusive.

22 (B) January 1, 2014, to December 31, 2016, inclusive.

23 (C) January 1, 2017, to December 31, 2020, inclusive.

24 (2) (A) No later than January 1, 2012, the commission shall
25 establish the quantity of electricity products from eligible
26 renewable energy resources to be procured by the retail seller for
27 each compliance period. These quantities shall be established in
28 the same manner for all retail sellers and result in the same
29 percentages used to establish compliance period quantities for all
30 retail sellers.

31 (B) In establishing quantities for the compliance period from
32 January 1, 2011, to December 31, 2013, inclusive, the commission
33 shall require procurement for each retail seller equal to an average
34 of 20 percent of *net program* retail sales. For the following
35 compliance periods, the quantities shall reflect reasonable progress
36 in each of the intervening years sufficient to ensure that the
37 procurement of electricity products from eligible renewable energy
38 resources achieves 25 percent of *net program* retail sales by
39 December 31, 2016, and 33 percent of *net program* retail sales by
40 December 31, 2020. The commission shall require retail sellers to

procure not less than 33 percent of *net program* retail sales of electricity products from eligible renewable energy resources in all subsequent years.

(C) Retail sellers shall be obligated to procure no less than the quantities associated with all intervening years by the end of each compliance period. Retail sellers shall not be required to demonstrate a specific quantity of procurement for any individual intervening year.

(3) The commission shall not require the procurement of eligible renewable energy resources in excess of the quantities identified in paragraph (2). A retail seller may voluntarily increase its procurement of eligible renewable energy resources beyond the renewables portfolio standard procurement requirements.

(4) Only for purposes of establishing the renewables portfolio standard procurement requirements of paragraph (1) and determining the quantities pursuant to paragraph (2), the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code in the calculation of *total and net program* retail sales by an electrical corporation.

(5) The commission shall waive enforcement of this section if it finds that the retail seller has demonstrated any of the following conditions are beyond the control of the retail seller and will prevent compliance:

(A) There is inadequate transmission capacity to allow for sufficient electricity to be delivered from proposed eligible renewable energy resource projects using the current operational protocols of the Independent System Operator. In making its findings relative to the existence of this condition with respect to a retail seller that owns transmission lines, the commission shall consider both of the following:

(i) Whether the retail seller has undertaken, in a timely fashion, reasonable measures under its control and consistent with its obligations under local, state, and federal laws and regulations, to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources. In determining the reasonableness of a retail seller's actions, the commission shall consider the retail

1 seller's expectations for full-cost recovery for these transmission
2 lines and upgrades.

3 (ii) Whether the retail seller has taken all reasonable operational
4 measures to maximize cost-effective deliveries of electricity from
5 eligible renewable energy resources in advance of transmission
6 availability.

7 (B) Permitting, interconnection, or other circumstances that
8 delay procured eligible renewable energy resource projects, or
9 there is an insufficient supply of eligible renewable energy
10 resources available to the retail seller. In making a finding that this
11 condition prevents timely compliance, the commission shall
12 consider whether the retail seller has done all of the following:

13 (i) Prudently managed portfolio risks, including relying on a
14 sufficient number of viable projects.

15 (ii) Sought to develop one of the following: its own eligible
16 renewable energy resources, transmission to interconnect to eligible
17 renewable energy resources, or energy storage used to integrate
18 eligible renewable energy resources. This clause shall not require
19 an electrical corporation to pursue development of eligible
20 renewable energy resources pursuant to Section 399.14.

21 (iii) Procured an appropriate minimum margin of procurement
22 above the minimum procurement level necessary to comply with
23 the renewables portfolio standard to compensate for foreseeable
24 delays or insufficient supply.

25 (iv) Taken reasonable measures, under the control of the retail
26 seller, to procure cost-effective distributed generation and allowable
27 unbundled renewable energy credits.

28 (C) Unanticipated curtailment of eligible renewable energy
29 resources necessary to address the needs of a balancing authority.

30 (6) If the commission waives the compliance requirements of
31 this section, the commission shall establish additional reporting
32 requirements on the retail seller to demonstrate that all reasonable
33 actions under the control of the retail seller are taken in each of
34 the intervening years sufficient to satisfy future procurement
35 requirements.

36 (7) The commission shall not waive enforcement pursuant to
37 this section, unless the retail seller demonstrates that it has taken
38 all reasonable actions under its control, as set forth in paragraph
39 (5), to achieve full compliance.

1 (8) If a retail seller fails to procure sufficient eligible renewable
2 energy resources to comply with a procurement requirement
3 pursuant to paragraphs (1) and (2) and fails to obtain an order from
4 the commission waiving enforcement pursuant to paragraph (5),
5 the commission shall exercise its authority pursuant to Section
6 2113.

7 (9) Deficits associated with the compliance period shall not be
8 added to a future compliance period.

9 (c) The commission shall establish a limitation for each electrical
10 corporation on the procurement expenditures for all eligible
11 renewable energy resources used to comply with the renewables
12 portfolio standard. In establishing this limitation, the commission
13 shall rely on the following:

14 (1) The most recent renewable energy procurement plan.

15 (2) Procurement expenditures that approximate the expected
16 cost of building, owning, and operating eligible renewable energy
17 resources.

18 (3) The potential that some planned resource additions may be
19 delayed or canceled.

20 (d) In developing the limitation pursuant to subdivision (c), the
21 commission shall ensure all of the following:

22 (1) The limitation is set at a level that prevents disproportionate
23 rate impacts.

24 (2) The costs of all procurement credited toward achieving the
25 renewables portfolio standard are counted towards the limitation.

26 (3) Procurement expenditures do not include any indirect
27 expenses, including imbalance energy charges, sale of excess
28 energy, decreased generation from existing resources, transmission
29 upgrades, or the costs associated with relicensing any utility-owned
30 hydroelectric facilities.

31 (e) (1) No later than January 1, 2016, the commission shall
32 prepare a report to the Legislature assessing whether each electrical
33 corporation can achieve a 33-percent renewables portfolio standard
34 by December 31, 2020, and maintain that level thereafter, within
35 the adopted cost limitations. If the commission determines that it
36 is necessary to change the limitation for procurement costs incurred
37 by any electrical corporation after that date, it may propose a
38 revised cap consistent with the criteria in subdivisions (c) and (d).
39 The proposed modifications shall take effect no earlier than January
40 1, 2017.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2021.

(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) If the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the long-term procurement plan established for the electrical corporation pursuant to Section 454.5.

(g) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall do both of the following within 60 days of making that determination:

(A) Investigate and identify the reasons why the electrical corporation may exceed its annual cost limitation.

(B) Notify the appropriate policy and fiscal committees of the Legislature that the electrical corporation may exceed its cost limitation, and include the reasons why the electrical corporation may exceed its cost limitation.

(h) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

SEC. 10. Section 399.30 of the Public Utilities Code is amended to read:

399.30. (a) In order to fulfill unmet long-term generation resource needs, each local publicly owned electric utility shall adopt and implement a renewable energy resources procurement plan that requires the utility to procure a minimum quantity of electricity products from eligible renewable energy resources,

1 including renewable energy credits, as a specified percentage of
2 total kilowatthours sold to the utility's retail end-use customers,
3 each compliance period, to achieve the targets of subdivision (c).

4 (b) The governing board shall implement procurement targets
5 for a local publicly owned electric utility that require the utility to
6 procure a minimum quantity of eligible renewable energy resources
7 for each of the following compliance periods:

8 (1) January 1, 2011, to December 31, 2013, inclusive.

9 (2) January 1, 2014, to December 31, 2016, inclusive.

10 (3) January 1, 2017, to December 31, 2020, inclusive.

11 (c) The governing board of a local publicly owned electric utility
12 shall ensure all of the following:

13 (1) The quantities of eligible renewable energy resources to be
14 procured for the compliance period from January 1, 2011, to
15 December 31, 2013, inclusive, are equal to an average of 20 percent
16 of *net program* retail sales.

17 (2) The quantities of eligible renewable energy resources to be
18 procured for all other compliance periods reflect reasonable
19 progress in each of the intervening years sufficient to ensure that
20 the procurement of electricity products from eligible renewable
21 energy resources achieves 25 percent of *net program* retail sales
22 by December 31, 2016, and 33 percent of *net program* retail sales
23 by December 31, 2020. The local governing board shall require
24 the local publicly owned utilities to procure not less than 33 percent
25 of *net program* retail sales of electricity products from eligible
26 renewable energy resources in all subsequent years.

27 (3) A local publicly owned electric utility shall adopt
28 procurement requirements consistent with Section 399.16.

29 (d) The governing board of a local publicly owned electric utility
30 may adopt the following measures:

31 (1) Rules permitting the utility to apply excess procurement in
32 one compliance period to subsequent compliance periods in the
33 same manner as allowed for retail sellers pursuant to Section
34 399.13.

35 (2) Conditions that allow for delaying timely compliance
36 consistent with subdivision (b) of Section 399.15.

37 (3) Cost limitations for procurement expenditures consistent
38 with subdivision (c) of Section 399.15.

39 (e) The governing board of the local publicly owned electric
40 utility shall adopt a program for the enforcement of this article on

1 or before January 1, 2012. The program shall be adopted at a
2 publicly noticed meeting offering all interested parties an
3 opportunity to comment. Not less than 30 days' notice shall be
4 given to the public of any meeting held for purposes of adopting
5 the program. Not less than 10 days' notice shall be given to the
6 public before any meeting is held to make a substantive change to
7 the program.

8 (f) (1) Each local publicly owned electric utility shall annually
9 post notice, in accordance with Chapter 9 (commencing with
10 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
11 Code, whenever its governing body will deliberate in public on its
12 renewable energy resources procurement plan.

13 (2) Contemporaneous with the posting of the notice of a public
14 meeting to consider the renewable energy resources procurement
15 plan, the local publicly owned electric utility shall notify the
16 Energy Commission of the date, time, and location of the meeting
17 in order to enable the Energy Commission to post the information
18 on its Internet Web site. This requirement is satisfied if the local
19 publicly owned electric utility provides the uniform resource
20 locator (URL) that links to this information.

21 (3) Upon distribution to its governing body of information
22 related to its renewable energy resources procurement status and
23 future plans, for its consideration at a noticed public meeting, the
24 local publicly owned electric utility shall make that information
25 available to the public and shall provide the Energy Commission
26 with an electronic copy of the documents for posting on the Energy
27 Commission's Internet Web site. This requirement is satisfied if
28 the local publicly owned electric utility provides the uniform
29 resource locator (URL) that links to the documents or information
30 regarding other manners of access to the documents.

31 (g) A local publicly owned electric utility shall annually submit
32 to the Energy Commission documentation regarding eligible
33 renewable energy resources procurement contracts that it executed
34 during the prior year, as follows:

35 (1) A description of the eligible renewable energy resource,
36 including the duration of the contract or electricity purchase
37 agreement.

38 (2) A description and identification of the electrical generating
39 facility providing the eligible renewable energy resource under
40 the contract.

(3) An estimate of the percentage increase in the utility's total net program retail sales of electricity from eligible renewable energy resources that will result from the contract.

~~(h) A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.~~

(i)

(h) For a local publicly owned electric utility that was in existence on or before January 1, 2009, that provides retail electric service to 15,000 or fewer customer accounts in California, and is interconnected to a balancing authority located outside this state but within the WECC, an eligible renewable energy resource includes a facility that is located outside California that is connected to the WECC transmission system, if all of the following conditions are met:

(1) The electricity generated by the facility is procured by the local publicly owned electric utility, is delivered to the balancing authority area in which the local publicly owned electric utility is located, and is not used to fulfill renewable energy procurement requirements of other states.

(2) The local publicly owned electric utility participates in, and complies with, the accounting system administered by the Energy Commission pursuant to this article.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the renewables portfolio standard procurement requirements.

(j)

(i) Notwithstanding subdivision (a), for a local publicly owned electric utility that is a joint powers authority of districts established pursuant to state law on or before January 1, 2005, that furnish electric services other than to residential customers, and is formed pursuant to the Irrigation District Law (Division 11 (commencing with Section 20500) of the Water Code), the percentage of total kilowatthours sold to the district's retail end-use customers, upon which the renewables portfolio standard procurement requirements in subdivision (b) are calculated, shall be based on the authority's average net program retail sales over the previous seven years. If the authority has not furnished electric service for seven years,

1 then the calculation shall be based on average *net program* retail
2 sales over the number of completed years during which the
3 authority has provided electric service.

4 ~~(k) A local publicly owned electric utility in a city and county~~
5 ~~that only receives greater than 67 percent of its electricity sources~~
6 ~~from hydroelectric generation located within the state that it owns~~
7 ~~and operates, and that does not meet the definition of a “renewable~~
8 ~~electrical generation facility” pursuant to Section 25741 of the~~
9 ~~Public Resources Code, shall be required to procure eligible~~
10 ~~renewable energy resources, including renewable energy credits,~~
11 ~~to meet only the electricity demands unsatisfied by its hydroelectric~~
12 ~~generation in any given year, in order to satisfy its renewable~~
13 ~~energy procurement requirements.~~

14 ~~(h)~~

15 (j) Each local publicly owned electric utility shall report, on
16 an annual basis, to its customers and to the Energy Commission,
17 all of the following:

18 (1) Expenditures of public goods funds collected pursuant to
19 Section 385 for eligible renewable energy resource development.
20 Reports shall contain a description of programs, expenditures, and
21 expected or actual results.

22 (2) The resource mix used to serve its customers by energy
23 source.

24 (3) The utility’s status in implementing a renewables portfolio
25 standard pursuant to subdivision (a) and the utility’s progress
26 toward attaining the standard following implementation.

27 ~~(m)~~

28 (k) A local publicly owned electric utility shall retain discretion
29 over both of the following:

30 (1) The mix of eligible renewable energy resources procured
31 by the utility and those additional generation resources procured
32 by the utility for purposes of ensuring resource adequacy and
33 reliability.

34 (2) The reasonable costs incurred by the utility for eligible
35 renewable energy resources owned by the utility.

36 ~~(n)~~

37 (l) On or before July 1, 2011, the Energy Commission shall
38 adopt regulations specifying procedures for enforcement of this
39 article. The regulations shall include a public process under which
40 the Energy Commission may issue a notice of violation and

1 correction against a local publicly owned electric utility for failure
2 to comply with this article, and for referral of violations to the
3 State Air Resources Board for penalties pursuant to subdivision
4 (o).

5 ~~(o)~~

6 (m) (1) Upon a determination by the Energy Commission that
7 a local publicly owned electric utility has failed to comply with
8 this article, the Energy Commission shall refer the failure to comply
9 with this article to the State Air Resources Board, which may
10 impose penalties to enforce this article consistent with Part 6
11 (commencing with Section 38580) of Division 25.5 of the Health
12 and Safety Code. Any penalties imposed shall be comparable to
13 those adopted by the commission for noncompliance by retail
14 sellers.

15 (2) If Division 25.5 (commencing with Section 38500) of the
16 Health and Safety Code is suspended or repealed, the State Air
17 Resources Board may take action to enforce this article on local
18 publicly owned electric utilities consistent with Section 41513 of
19 the Health and Safety Code, and impose penalties on a local
20 publicly owned electric utility consistent with Article 3
21 (commencing with Section 42400) of Chapter 4 of Part 4 of, and
22 Chapter 1.5 (commencing with Section 43025) of Part 5 of,
23 Division 26 of the Health and Safety Code.

24 (3) For the purpose of this subdivision, this section is an
25 emissions reduction measure pursuant to Section 38580 of the
26 Health and Safety Code.

27 (4) If the State Air Resources Board has imposed a penalty upon
28 a local publicly owned electric utility for the utility's failure to
29 comply with this article, the State Air Resources Board shall not
30 impose an additional penalty for the same infraction, or the same
31 failure to comply, with any renewables procurement requirement
32 imposed upon the utility pursuant to the California Global Warming
33 Solutions Act of 2006 (Division 25.5 (commencing with Section
34 38500) of the Health and Safety Code).

35 (5) Any penalties collected by the State Air Resources Board
36 pursuant to this article shall be deposited in the Air Pollution
37 Control Fund and, upon appropriation by the Legislature, shall be
38 expended for reducing emissions of air pollution or greenhouse
39 gases within the same geographic area as the local publicly owned
40 electric utility.

1 ~~(p)~~
2 (n) The commission has no authority or jurisdiction to enforce
3 any of the requirements of this article on a local publicly owned
4 electric utility.

5
6
7 CORRECTIONS: _____
8 Text—Page 4.
9 _____