

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: February 11, 2009

To: The Commission
(Meeting of February 20, 2009)

From: Pamela Loomis, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 14 (Simitian, Kehoe, Padilla & Steinberg) – PUC: energy:
renewable energy resources: rates.
As amended: January 29, 2009**

LEGISLATIVE SUBCOMMITTEE RECO: OPPOSE UNLESS AMENDED

SUMMARY OF BILL:

The bill would increase the renewables portfolio standard (RPS) target to 33% in 2020 and make several changes to the RPS program. This bill would also make several changes that affect electric rates, including modifying eligibility for the California Alternate Rates for Energy (CARE) program, barring mandatory dynamic pricing for residential electric customers, and lifting the current cap on some residential electricity rates. This bill would also modify low-income energy efficiency programs and relax some statutory constraints on existing direct access arrangements, while removing any Commission discretion on the complete reopening of direct access. Finally, this bill would modify the governance structure of the California Public Utilities Commission (CPUC) and require the CPUC to meet once a month in Sacramento.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The CPUC supports the advancement of the renewable portfolio standard beyond 20% by 2010 towards a goal of 33% by 2020. Indeed, the Commission considers increased procurement from renewable sources to be a critical element of meeting AB 32's emission reduction goals and greening California's power production and consumption. However, the CPUC is concerned that the inclusion of the non-RPS-related provisions in SB 14 interfere with the development of a simple and flexible statutory framework for the RPS program, and the Commission continues to be opposed to the proposed modifications to its governance structure.

DIVISION ANALYSIS (Energy Division):

A. Renewable Portfolio Standard (RPS) program

Increased RPS Target

This bill would require investor-owned utilities (IOUs), energy service providers (ESPs), and publicly-owned utilities (POUs) to increase their procurement of renewable energy by an additional 1% of retail sales per year so that 33% of their retail sales are procured from renewables no later than December 31, 2020.

The CPUC supports increasing the RPS beyond 20%, and making the mandate enforceable for publicly-owned utilities as well. However, the Commission remains concerned about mandating hard targets without conducting analysis on the feasibility of attaining the targets, given potential supply, transmission availability, and permitting timelines. The CPUC recommends either: 1) requiring retail providers to annually increase their renewable procurement by a set percentage of delivered energy per year (i.e. 1.5%) without mandating 33% by 2020; OR 2) mandating 25% by 2015 and 33% in 2020 without requiring annual incremental increases. The latter would allow the CPUC the flexibility to develop and modify annual targets, pursuant to its long-term procurement planning process, to keep the utilities on track.

As drafted, SB 14 (in PU Code 399.15(b)(1)) would require both annual 1% incremental RPS targets and a 33% in 2020 RPS mandate, with penalties for both of these targets. The CPUC's experience has been that having both sets of requirements makes the rules too complex and unwieldy. The Commission would prefer having the authority and flexibility to determine appropriate intervals for assessing penalties.

SB 14 would also require the CPUC to report to the Legislature by January 1, 2012, and every 2 years thereafter, on the progress and status of procurement activities, the identification of barriers, and policy recommendations for achieving the RPS goals. Based on this information, the Legislature and Governor will be able to monitor the viability of proceeding to 33% by 2020 based on actual data from the program, rather than on admittedly problematic forecasted data from 2009. These reports will facilitate the Legislature's consideration of appropriate and timely changes to the RPS statute.

Eligibility

SB 14 would modify the definition of "delivered" (PR Code §25741(a)) to say that energy shall be deemed delivered if it is located within the state or is "generated at a location outside the state and scheduled for simultaneous consumption by California end-use retail customers". The bill deletes the provision that out-of-state eligible renewable energy can be delivered regardless of whether the electricity is generated at a different time from consumption by California end-use customers.

This change would effectively eliminate the ability of eligible intermittent (e.g. wind and solar) out-of-state renewable energy facilities to participate in the California RPS.

Currently, intermittent out-of-state energy is “firmed and shaped” with a non-intermittent product so that a California retail seller can buy out-of-state renewable energy.

The CPUC supports the participation of out-of-state renewable energy in California’s RPS program. The Commission generally supports allowing renewable energy facilities that meet the current technology requirements from anywhere in the Western Interconnection (within WECC) to count towards compliance. Bundled contracts should have a requirement of delivery of the energy to California because they provide a hedging benefit since the underlying energy is bought at a fixed price. However, out-of-state eligible renewable energy credit (REC) contracts should not have a delivery requirement because by definition, the utility buying the REC is not buying the energy. This approach takes advantage of the GHG reduction potential of renewables in the Western Region as a whole, helps California meet its AB 32 goals, mitigates in-state RPS costs, and provides the state more options for reaching its RPS goals. Further, the CPUC supports keeping existing language that gives the CPUC the authority to determine the appropriate cap on such REC-only transactions.

Along these lines, the CPUC recommends modifying the definition of “procure” in PU Code §399.12(d) as follows:

“Procure” means that a retail seller or local publicly owned electric utility *contracts for renewable energy credits* or receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement.

Procurement Plans and Contract Evaluation

This bill would require the RPS annual Procurement Plans to be more robust and would tie the content of the Plans, as well as contract bid evaluation criteria and renewable energy contract evaluation, to long-term procurement planning.

Currently, the RPS statute is very prescriptive and does not allow the CPUC to update RPS rules according to market and regulatory realities that affect renewable energy development. Also, RPS program implementation is very insular, specifically 1) the CPUC does not evaluate renewable energy contracts based on how they affect the rest of the utility’s portfolio from a long-term planning perspective, and 2) the utilities do not to plan their fossil procurement and transmission in light of RPS obligations. This bill would enable the CPUC and utilities to evaluate RPS contracts in light of the utility’s portfolio need.

Proposed PU Code §399.14(a)(3)(D) would require utilities to provide a “status update on the development schedule for all renewable resources currently under contract.” The Commission already requires a robust Project Development Status Report with each semi-annual compliance report (D.06-05-039) from the utilities, so this proposed statutory requirement is unnecessary. Further, Energy Division staff is currently

working with parties to better align project viability with bid selection, contract review and approval, and flexible compliance.

Proposed PU Code §399.14(d) would require the CPUC to identify project development milestones for renewable projects under contract and take action against developers for not meeting milestones. Utilities and developers already negotiate project development milestones for each contract, and the consequences for missing milestones are captured in the contract terms and conditions. The CPUC is concerned that its interference with contract negotiations would unnecessarily create program complexity, as well as negatively impact renewable energy developers' ability to finance new projects in California by creating market uncertainty.

Cost Containment Mechanism

The CPUC is committed to cost containment within the RPS program. Pursuant to PU Code §701.1, the CPUC has an obligation to ensure that the principal goal of electric utilities' resource planning and investment is to minimize the cost to society of reliable electric services, and to improve the environment and to encourage renewable energy resources.

The CPUC generally supports replacing the Market-Price Referent (MPR) approach to cost containment, which essentially caps the amount by which renewable energy contract costs can exceed those of gas-fired alternatives. Stakeholders have rightly questioned why there should be a cap on what the state pays for renewable energy when there is not a cap on the cost of fossil-fired power. In the present context of climate policy, the more appropriate comparison may be between renewable energy costs and those of other GHG reduction measures.

This bill would eliminate the MPR and cost limitation (PU Code Sections 399.14(a)(2)(A), 399.15(c), 399.15(d)), and would replace them with a "just and reasonableness" standard, which would allow the CPUC to review RPS costs in light of market realities and a utility's overall portfolio. This is appropriate because pursuant to existing PU Code §454.5, the CPUC has the authority to approve IOU procurement plans and contracts that comply with the plan. Renewable procurement should be treated no differently than other forms of procurement, which are evaluated based on comparable market prices and the reasonableness of project costs relative to other projects bid into the same solicitation.

Commission staff has presented a proposal in the context of the Long Term Procurement Planning proceeding to use a long term portfolio analysis to evaluate all utility procurement decisions from the perspective of cost, system reliability, and greenhouse gas impact. This approach would be consistent with the CPUC's existing statutory authority and could potentially support comparisons with other GHG reduction measures within the electric sector.

Compliance Rules

The bill would delete PU Code §399.14(a)(2)(C)(ii), which requires flexible rules for compliance for a lack of transmission, and would allow the CPUC to implement more appropriate flexible compliance rules, if any. The CPUC supports this approach because it will reduce the complexity of the program.

Enforcement

Proposed PU Code §399.14(e) would require the CPUC to consult with CARB on developing enforcement rules for the RPS program that provide for the imposition of penalties by CARB upon referral and recommendation by the CPUC.

The CPUC generally supports enforcing the requirements of the RPS program for the entities it regulates, and supports the creation of an enforcement and penalty mechanism that can be equally applied to publicly-owned utilities. However, the CPUC has previously been required to work with another agency to implement a two-stop process as part of the RPS program, and it failed. It was subsequently eliminated by SB 1036 (2007). The CPUC would prefer clarification in this proposed statute that the Commission retains its jurisdiction over the determination of penalties related to RPS targets outside the parameters of AB 32 implementation, and that CARB would only collect penalties recommended by the CPUC. Further, the statute must be clear that utilities will not be double-penalized for missing RPS obligations.

Suggested Technical Amendments for RPS-related provisions:

- Amend proposed PU Code §399.14(a)(3)(A) as follows:

This assessment shall be consistent with the electrical corporation's long term portfolio planning conducted pursuant to Section 454.5 or ~~Section 399.17 and shall consider the electrical corporation's optimal portfolio to reach the state's goals for reducing emissions of greenhouse gases.~~ Consistent with an electrical corporation's long term portfolio planning, the commission may require analyses, including, but not limited to, the rate impact, effects on system reliability, and the environmental and economic benefits *and costs* of the proposed procurement.

- Amend proposed PU Code §399.15(e) to include in the list of contract review metrics:

Consider any other factors that the commission determines may be necessary for adequate review of the contract.

- Amend existing PU Code §399.20 (feed in tariff) to reflect this bill's elimination of the market price referent (MPR) in PU Code §399.15:

The tariff shall provide for payment for every kilowatthour of electricity generated by an electric generation facility at ~~the market~~ a price as to be determined by the commission ~~pursuant to Section 399.15~~ for a period of 10, 15, or 20 years, as authorized by the commission.

B. Transmission

This bill would advance several transmission-related goals, including: efficient permitting of transmission needed to meet RPS goals; discretion for the CPUC to approve recovery in retail rates of certain “justified” transmission costs disallowed by FERC; improved operational and planning coordination among California's different transmission owners and operators; and efficient integration of renewable generation needed to reach the state's 33% RPS goal by 2020.

Transmission Permitting

The CPUC has the responsibility for permitting high-voltage, utility-owned transmission facilities, including responsibility as the lead agency under CEQA for preparing environmental reports associated with what can be very extensive and complex transmission projects. The CPUC has recently streamlined its permitting process, including increased attention to pre-filing activity such that when an application reaches the CPUC, it is more likely to be complete or nearly so.

This bill would require the CPUC to approve transmission projects within one year of receiving a completed application unless the Commission makes certain findings including finding that line threatens the environment, and therefore, requires a longer process. This one-year requirement, practically speaking, is unlikely to produce significant changes in permitting or significantly shorter timelines for processing permit applications. The main reason that completed applications are processed over more than a year is, in fact, the complexity of environmental issues, the existing legal requirements to address such impacts and the need to coordinate such environmental reviews with federal agencies that are not under the same time constraints as California agencies.

The bill would eliminate Public Utilities Code § 399.25, which requires the CPUC to approve transmission projects that are necessary to facilitate meeting RPS goals. Eliminating this section could delay the approval of projects that are needed to develop renewable resources in California since the CPUC would need to evaluate a wide range of issues before approving California projects.

Transmission Cost Recovery

In the process of permitting transmission projects, the CPUC establishes cost caps, and as a result of Decision 06-06-034 (implementing Public Utilities Code § 399.25), may approve eligibility for recovery in retail rates of transmission costs incurred in support of renewable energy goals in the event FERC disallows recovery. The CPUC also participates on behalf of California interests in proceedings through which FERC approves rates for recovery of transmission costs, including costs of major projects permitted by the CPUC.

This bill would require the CPUC to approve “reasonable and cost-effective” transmission projects that support RPS goals and are not under FERC ratemaking authority. In practice, projects not under FERC ratemaking authority will not be under CPUC permitting authority either. Also, CPUC “backstop cost recovery” policy (Decision 06-06-034 described above) already addresses approval and cost recovery for transmission projects needed to support RPS goals.

This bill would also allow the CPUC to approve “justified” transmission costs disallowed by FERC. Whereas the existing § 399.25 is limited to renewable projects, it is unclear whether the author intended to extend this cost recovery discretion beyond renewable-related transmission projects. If not, the CPUC’s existing “backstop cost recovery” policy described above already takes care of cost recovery for transmission needed to support renewable energy goals.

SB 14 would generally not change these CPUC efforts regarding transmission cost recovery, either in the CPUC’s own proceedings or at FERC, because SB 14 would not actually provide additional cost recovery options beyond what is already available. The one exception would be if the CPUC was given discretion to approve recovery in retail rates of any justified (not just renewable energy-related) transmission costs disallowed by FERC. Implementation of this expanded discretion could require additional staff effort to assess whether a potentially broad range of transmission costs meets these criteria, even though actual situations warranting this treatment are unlikely to arise.

Transmission Operational and Planning Coordination

This bill would direct the California Energy Commission (CEC) to facilitate: the development of annual statewide transmission plans with the California Independent System Operation (CAISO); the siting and approval of new transmission that can be jointly owned or utilized; and seams agreements between the CAISO, POU, and IOUs.

The California-wide Renewable Energy Transmission Initiative (RETI) involving the CPUC, CEC, CAISO, non-CAISO transmission owners and various generation-related and other stakeholders, is currently working to establish conceptual transmission plans for identified high priority renewable energy zones. This process is intended to inform the CAISO’s Transmission Planning Process (TPP) and its stakeholders, in a manner similar to the way that SB 14 would require a coordinated annual statewide transmission plan.

“Seams” issues between the CAISO and neighboring control areas have been and are being addressed bilaterally and through FERC and WECC, in some instances with participation of varied stakeholders including the CPUC. The main underlying driver is the fact that, contrary to the situation in the east, in the west the CAISO represents the only independently operated transmission system, with a central, structured market and flexible, open access to the grid based on economic signals and priorities.

The CPUC supports and participates in the CAISO’s transmission planning process and supports improved joint planning and operating (“seams”) arrangements between the CAISO and non-CAISO transmission owners. CPUC staff also participate extensively in FERC proceedings regarding transmission access, planning, and cost recovery, since these matters tend to be both FERC jurisdictional and of considerable import to ratepayers and other California interests.

It is unclear how calling upon CEC “facilitation” could enhance seams coordination efforts. Furthermore, SB 14’s explicit support for long-term physical transmission rights and, especially, “cost certainty,” addresses fundamental “seams” issues in a way that could hinder and constrain effective long term solutions that would provide greatest benefit for California customers.

Additionally, a major responsibility of the CPUC is administering the resource procurement programs of CPUC-jurisdictional load serving entities (LSEs). This procurement and its support of the state’s overall energy goals is significantly affected and informed by transmission plans and developments, and in turn itself impacts transmission planning. If SB 14 were to alter transmission planning and development, or perhaps even the conditions of access to transmission (e.g., via “seams” agreements), this would affect access to and cost of resources, and thus would affect the CPUC-administered procurement programs. These interdependencies are a major reason for CPUC’s close involvement and interest in transmission planning and transmission access issues.

C. Rate-related Issues

CARE Program

The California Alternate Rates for Energy (CARE) program, codified in PU Code section 739.1, provides a 20% discount on electric and natural gas monthly bills for eligible low- or fixed-income ratepayers. This bill would amend PU Code section 739.1(a) to define income eligibility for the CARE program at 200% of federal poverty guidelines.

Currently, the eligibility guidelines for the CARE program are not in statute. Since 2005, the CPUC has set CARE eligibility at 200% of federal poverty guidelines (see CPUC Decision 05-10-044). The CPUC would prefer to retain the flexibility of changing the eligibility criteria for CARE depending on the state’s changing economic conditions. In order to leverage funds from federal programs and be in a position to provide low income energy assistance to more deserving people, the CPUC should be afforded the

discretion to reform the eligibility guidelines, or adopt a new set of guidelines, within existing CPUC authority.

This bill would also codify the cost recovery method for the CARE program as an equal cents per therm basis. The CPUC consistently resists statutory attempts at ratemaking, and this is no exception. The CARE program is currently funded by surcharges on the electric and natural gas bills of all customer classes (residential, commercial and agricultural) on an equal cents per therm basis. However, the CPUC is currently examining in proceeding A.07-12-006 whether to change this basis to an equal percent of base revenue due to complaints from the non-residential customer classes that they are unfairly paying the lion's share of a program that they do not benefit from. The CPUC should be left the discretion to exercise its ratemaking authority in determining the appropriate allocation method.

Dynamic Pricing

This bill would add proposed section 745 to the Public Utilities Code to prohibit the CPUC from employing mandatory dynamic pricing for residential customers. Dynamic pricing is a rate structure that reflects the time of the energy's use (TOU). TOU rates have great public policy benefits like reduced costs, improved grid reliability, and reduced greenhouse gas emissions. In an AB 32-implementation world, the state should not be limiting the CPUC's ability to use innovative rate design options to encourage reductions in peak load usage and conservation. The CPUC would carefully consider the impacts of mandatory TOU rates on customers, including low income customers, and the need for substantial customer education before adopting such rates.

130% of Baseline Rate Restrictions

This bill would delete Section 80110 (e) of the Water Code, thereby eliminating the statutory rate cap established under AB 1X (2001) that bars the CPUC from increasing rates for electricity usage that falls under 130% of the baseline quantity for residential customers. This bill would also add Section 739.9 to the Public Utilities Code to allow the CPUC to increase rates charged to residential customers for electricity usage that falls under 130% of baseline quantity by a change in the CPI plus 1%. This rate increase should be at least 3% but not more than 5% per year.

Residential electricity rates feature a "tiered" structure, whereby usage is measured against as many as 5 tiers, each of which is associated with a specific rate, charged in cents per kilowatt-hour—as a customer consumes more electricity, that consumption is tracked in higher and higher tiers. In currently-adopted rates, a higher-usage customer is charged higher rates for that usage. "Tier 1" consists of usage up to a customer's "baseline" level; this is defined as the quantity that is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. "Tier 2" is defined as usage between the baseline amount, and up to 130% of that amount.

Since 2001, AB1X has prevented the CPUC from increasing rates for the residential electricity usage under 130% of baseline (Tiers 1 & 2). During this time, electricity generation, transmission and distribution costs have escalated due to increases in infrastructure, fuel and labor costs. These increased costs have been disproportionately borne by customers whose usage exceeded 130% of baseline (Tiers 3, 4 & 5). Since electricity usage subject to the rate cap is approximately 70% of investor-owned utility sales, requiring that the utilities cover cost increases by increasing rates on the remaining 30% of usage has resulted in very high rates for Tiers 3, 4 and 5. While the CPUC supports lifting the AB 1x cap, this bill is overly prescriptive in requiring that rates should increase by at least 3 percent and not more than 5 percent per year. This requirement unnecessarily limits the CPUC's authority to set rates that accurately reflect utility costs.

D. Miscellaneous Provisions

Low-Income Energy Efficiency Programs

This bill would amend PU Code section 327 to require energy efficiency and solar programs for low-income ratepayers to target upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage.

The CPUC does not support targeting specific customer segments in the low income energy efficiency program. Decision 08-11-031 on utility budgets for low income programs clearly emphasizes that "the IOU's must serve all eligible low income customers." Targeting specific customers like upper-tier and multifamily customers, is a diminished approach as compared to the Commission's directive to focus outreach efforts on customers with high energy use, burden, or insecurity.

Also, the criteria that energy efficiency programs should result in 'long term permanent reductions' in energy use could be in conflict with the stated goal of the Low Income Energy Efficiency (LIEE) program to 'improve the quality of life of the low income population'. For example, the installation of air-conditioning in a hot climate zone will improve the quality of life of the low-income individual, but it would not result in long term permanent energy reductions.

This bill would also amend PU Code section 382 by adding subparagraph (f) to require electric utilities to deploy LIEE programs designed to reach as many eligible customers as possible by December 31, 2014.

In CPUC Decision 07-12-051 and the Commission's Long-term Energy Efficiency Strategic Plan, the CPUC's stated long term vision for the LIEE program is: "By 2020, 100% of eligible and willing customers will have received all cost effective Low income energy efficiency measures." Furthermore, in its November 2008 decision on the budget applications of Investor Owned Utilities (D.08-11-031), the CPUC approved substantial budget increases to provide LIEE assistance to 25% of eligible and willing customers during 2009 to 2011. D.08-11-031 clearly emphasizes that the IOU's must

serve all eligible low income customers. This bill's approach of targeting specific customers, like multifamily housing residents, is a diminished approach compared to the CPUC's current directives. Instead, the CPUC can direct utilities to focus their outreach and marketing efforts on particular segments such as those suggested in the bill. This flexible approach can be modified depending on the necessity for focus on specific customer segments that may change over time.

Direct Access

This bill would amend Section 80110 of the Water Code to maintain the current "suspension" of Direct Access, but specify that the commission may allow individual retail end-use customers who are either currently taking service from an electric service provider, or eligible to take service from an electric service provider under Commission rules, to acquire service for new accounts from an electric service provider. The CPUC supports relaxing the direct access suspension. However, the bill would also prohibit the CPUC from allowing the reopening of direct access without express statutory authority. The CPUC opposes this provision.

Direct Access was originally implemented by the Commission on April 1, 1998, as an integral part of a comprehensive restructuring program to bring retail competition to California electric power markets. Under this competitive restructuring program implemented pursuant to Assembly Bill (AB) 1890, retail customers have the choice either to subscribe to traditional bundled utility service or to purchase electricity on a competitive basis from an electric service provider (ESP). A direct access customer receives distribution and transmission services from the utility, but purchases electricity directly through an independent ESP. Although the ESP supplies electricity to the direct access customer, the utility remains the electricity provider of last resort.

In 2001, after the Department of Water Resources (DWR) had contracted for power on behalf of the state's IOUs during the energy crisis, the Legislature suspended direct access in order to ensure that cost responsibility for the DWR procurement was assigned in a fair manner among retail electric customers and to assure a stable customer base. Pursuant to the legislative mandate of AB1X, the CPUC suspended the right to enter into new contracts for direct access after September 20, 2001. A "standstill approach" was applied, permitting no new direct access contracts, but allowing preexisting contracts to continue in effect.

The CPUC believes that the underlying concerns previously identified by the Commission and the Legislature as reasons for the suspension of direct access have been addressed in various Commission proceedings. For example, DWR bonds were issued at investment grade, and the Commission established non-bypassable charges for recovery of DWR bond costs. The Commission has also established cost recovery mechanisms for DWR to be reimbursed for its power costs from both bundled and direct access customers. California energy markets have become more stable and the Commission has adopted various policy reforms to eliminate the conditions that prompted the energy crisis of 2000-2001. In addition, the Commission has

implemented its resource adequacy program pursuant to AB 380, and its Long Term Procurement Planning process pursuant to AB 57. The CPUC is currently examining options for relieving DWR of its responsibility as a power provider, potentially making it possible to resume direct access under current law. This bill would remove CPUC discretion in this area until express statutory authority is granted at some future point.

CPUC Governance

This bill would make the Governor's appointment of president of the CPUC subject to confirmation by the Senate. It also would provide that the general counsel and the executive director of the CPUC shall both operate as directed by the CPUC rather than as directed by the president of the CPUC, and that the Commission shall meet in Sacramento once a month.

Requiring Senate confirmation of the Governor's selection of president would increase the politicization of the office, and run contrary to the Legislature's intent in 1999, when it enacted SB 33 (Peace).

SB 33 made the President of the CPUC a designee of the governor instead of an appointment by his/her fellow CPUC commissioners. The Legislature thought this change would make the CPUC more accountable to the Administration and the Legislature. SB 33 also explicitly centralized accountability for the functioning of the CPUC by putting the Commission's executive director and the general counsel directly under the control of the president. The president's ability to direct the executive director and general counsel on routine matters enhances the efficient operation of the CPUC.

Finally, the requirement that the CPUC meet in Sacramento once a month will increase costs with no known benefit since the CPUC already webcasts its commission meetings. The CPUC's Administrative Law Judge (ALJ) Division estimates that holding twelve meetings in Sacramento over the course of a year will cost approximately \$82,000, which includes the costs of renting an auditorium with a seating capacity of 150-200 people and the travel expenses for approximately 50 CPUC employees.

PROGRAM BACKGROUND:

RPS Program

The RPS program was adopted in SB 1078 (2002), and subsequently modified by SB 107 (2006) and SB 1036 (2007). The CPUC is statutorily responsible for 1) requiring each utility to submit an RPS Procurement Plan, 2) adopting a pricing benchmark to evaluate RPS contracts, 3) adopting a process that utilities must use to evaluate renewable energy projects bid into their solicitations, 4) adopting RPS compliance rules, 5) reviewing and approving or rejecting utilities' RPS contracts, and 6) reporting to the Legislature, on a quarterly basis, on the RPS program. The CPUC has adopted approximately 30 decisions to implement these aspects of the RPS program and has

approved over 110 RPS contracts for nearly 7,000 megawatts (1,000 megawatts of which have already begun delivering RPS-eligible energy).

Each year, the utilities each submit an RPS Procurement Plan, which includes, in part, a description of their renewable energy procurement supply and demand and a description of how they will evaluate RPS bids. The CPUC evaluates and approves each Plan. Then, the utilities rank each bid, select which bids to negotiate with, and execute a number of contracts. The CPUC evaluates each executed contract in light of its compliance with the utility's Plan and other CPUC decisions, the reasonableness of the contract price, and the viability of the project. In order to contain the costs of the RPS program, if the contract price is at or below a CPUC-calculated price benchmark (based on the cost of a fossil fuel plant), the price is considered reasonable. However, if it exceeds the benchmark, the utility has a limited amount of funds that it can use towards those above-market contract costs.

The CPUC has also become involved in other activities to improve the RPS program, to coordinate with agencies statewide to facilitate renewable energy development in California, and to provide robust information to the public and Legislature on the progress of the RPS program and the trends in the renewable energy market. For example, we started the Renewable Energy Transmission Initiative (RETI), and involved the CEC, CAISO, developers, environmental groups in order to facilitate statewide renewable transmission planning for new renewable energy projects. We maintain numerous databases of project characteristics and viability and produce robust analyses on the barriers facing renewable energy development. We have also begun an analysis of the feasibility and cost of a 33% RPS, which will result in a better understanding of the barriers and solutions for reaching a higher RPS target in California.

Transmission siting and permitting

Existing constitutional authority exists for CPUC jurisdiction over transmission siting and approval. Also, per the California Environmental Quality Act (CEQA), the CPUC has discretionary authority regarding electric infrastructure owned and / or operated by investor owned utilities, therefore the CPUC is the lead agency in preparing the environmental impact report (CEQA).

Currently, for siting transmission lines to be constructed by investor owned utilities, the IOU prepares a plan of service and submits it to the CAISO for approval. After the CAISO approves the project based on economic and reliability analysis, the IOU prepares an application and Proponent's Environmental Assessment (PEA) and submits it to the CPUC. Once the application is filed with and deemed complete by the CPUC, an environmental document is prepared, often in coordination with an appropriate federal agency if the transmission line crosses federal lands. During the process of preparing the environmental document, the CPUC staff holds extensive public meetings and agency consultations in order to site a transmission line. Preparation of the environmental document and the CPUC's CPCN process take place concurrently.

Eventually, the environmental document is used in the CPCN process. When the applicant receives the CPCN approval, they may start construction.

CPUC staff currently participate in the CAISO's transmission planning process including issues related to renewable and other resource priorities as well as the need for and efficiency of transmission projects.

CPUC staff plays a leading role in the RETI process to prioritize renewable energy zones and associated transmission, and generally works closely with CAISO and stakeholders to coordinate supply and transmission planning on an increasingly forward-looking basis.

Transmission Operational and Planning Coordination

The CAISO has developed a reformed, open transmission planning process (TPP) approved by FERC and consistent with FERC policy under recent Order 890. The CAISO is also seeking to develop a joint planning process with non-CAISO member transmission owners in California, via the Pacific Southwest Planning Association (PSPA), which is consistent with both Order 890 and with the role of subregional planning groups (of which PSPA would be one) as one tier within the WECC (western grid) planning structure. The CAISO also manages a range of market and reliability programs for its control area, which are in the midst of a major reform, Market Redesign and Technology Update, to be rolled out this spring after lengthy and complicated stakeholder and FERC processes. Furthermore, the operating (market and reliability) implications of integrating large, unprecedented (almost unimaginable) amounts of variable renewable generation into the CAISO system are being assessed in the CAISO's Integration of Renewable Resources Program (IRRP), providing substantial upfront opportunity for stakeholder input, and emphasizing coordination with the RETI and LTPP processes.

STATUS: This bill was heard by the Senate Energy, Utilities & Communications Committee on February 10, 2009. The committee received over five hours of testimony, but did not take a vote. The committee will hold another hearing in the near future.

SUPPORT/OPPOSITION:

Support:

American Federation of State, County and Municipal Employees
American Lung Association of California
Breathe California
California Biomass Energy Alliance
Clean Power Campaign
Coalition of Utility Employees
California State Association of Electrical Workers
California State Pipe Trades Council
Division of Ratepayer Advocates (with amendments)
Environment California
First Solar (with amendments)
GreenVolts

Independent Energy Producers (if amended)
Large-Scale Solar Association (with amendments)
Natural Resources Defense Council (if amended)
RightCycle Enterprises
Sierra Club California (if amended)
Southern California Public Power Authority (if amended)
State Building and construction Trades Council
The Solar Alliance (with amendments)
Union of Concerned Scientists (if amended)
Western States Council of Sheet Metal Workers

Concerns:

California Hydropower Reform Coalition
Northern California Power Agency (with amendments)
The Greenlining Institute
The Utility Reform Network

Oppose:

Alliance for Retail Energy Markets (unless amended)
BP America Inc. (unless amended)
California Chamber of Commerce (unless amended)
California Large Energy Consumers Association (unless amended)
California Manufacturers & Technology Association
California Retailers Association
California Wind Energy Association (unless amended)
Direct Energy (unless amended)
Pacific Gas and Electric Company (unless amended)
PetSmart, Inc.
RBS Semptra Commodities
Safeway
School Project for Utility Rate Reduction
Shell Energy North America
Southern California Edison (unless amended)
Western States Petroleum Association

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BILL LANGUAGE:

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BILL TEXT

AMENDED IN SENATE JANUARY 29, 2009

INTRODUCED BY Senators Simitian, Kehoe, Padilla, and Steinberg
(Coauthor: Senator Leno)

DECEMBER 1, 2008

An act to amend Sections 25740 ~~and 25741~~ ,
25741, 25746, 25747, and 25751 of the Public Resources Code,
to amend Sections 305, 306, 307, 308, 327, 382, 399.11, 399.12,
~~399.13, 454.5, and 739.1 of, to amend, repeal, and add~~
~~Sections 399.14 and 399.15~~ 399.14, 399.15, 399.16,
399.17, 454.5, and 739.1 of, and to amend and renumber Section 399.13
of, to add Sections 399.22, 399.26, 399.30, 399.31,
739.9, 745, and 1005.1 to, and to repeal Section 387 of, the Public
Utilities Code, and to amend Section 80110 of the Water Code,
relating to utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as amended, Simitian. Utilities: Public Utilities
Commission: energy: renewable energy resources: rates.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations. The California Constitution grants the PUC certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the PUC, that is cognate and germane to the regulation of public utilities. Existing law requires the Governor to designate the president of the PUC from among its members and requires the president to direct the executive director, the attorney, and other staff of the PUC, except for the Division of Ratepayer Advocates.

This bill would require the Governor to appoint, subject to the approval of the Senate, a president of the PUC from among its members. The bill would repeal the requirement that the president direct PUC staff.

(2) Existing law requires the office of the PUC to be in the City and County of San Francisco and that, with certain exceptions, the office always be open. Existing law requires the PUC to hold its sessions at least once in each calendar month in that city and county, and authorizes the PUC to also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties.

This bill would additionally require the PUC to hold at least one

session in each calendar month in the City of Sacramento.

(3) Existing law authorizes the attorney for the PUC, if directed to do so by the president, except as otherwise directed by vote of the PUC, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. Existing law requires the attorney for the PUC to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the PUC, as directed or authorized by the president, except as otherwise directed or authorized by vote of the PUC.

This bill would authorize the attorney for the PUC, if directed to do so by the PUC, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. This bill would require the attorney for the PUC to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the PUC, as directed or authorized by the PUC.

(4) Existing law requires the executive director for the PUC to keep a full and true record of all proceedings of the PUC, issue all necessary process, writs, warrants, and notices, and perform such other duties as the president, or vote of the PUC, prescribes. Existing law provides that the president may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the PUC may prescribe.

This bill would require the executive director to keep a full and true record of all proceedings of the PUC, issue all necessary process, writs, warrants, and notices, and perform the other duties the PUC prescribes. The bill would provide that the PUC may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the PUC may prescribe.

(5) Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the PUC from requiring or permitting an electrical corporation to employ dynamic pricing for residential customers, but would authorize the PUC to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to dynamic pricing. The bill would, beginning January 1, 2016, authorize the PUC to authorize an electrical corporation to employ default dynamic pricing for residential customers, if the customer has the option of receiving service pursuant to a rate schedule that is not based upon dynamic pricing and if residential customers that exercise the option to not receive service pursuant to the dynamic pricing incur no additional costs as a result of the exercise of that option.

(6) Existing law requires the PUC to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program, and prohibits the cost to be borne solely by any single class of customer.

This bill would require the PUC to establish the CARE program to provide assistance to low-income electric and gas customers with annual household incomes at or below 200% of the federal poverty guideline levels, and require that the cost of the program be

recovered on an equal cents-per-kilowatthour or cents-per therm basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008.

(7) Existing law relative to electrical restructuring requires that the electrical corporations and gas corporations that participate in the CARE program administer low-income energy efficiency and rate assistance programs described in specified statutes, and undertake certain actions in administering specified energy efficiency and weatherization programs.

This bill would require that electrical corporations, in administering the specified energy efficiency and weatherization programs, to target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage and develop programs that specifically target new construction by, and new and retrofit appliances for, nonprofit affordable housing providers. The bill would require the PUC to require electrical corporations to deploy enhanced low-income energy efficiency programs, as defined, designed to reach as many eligible customers as practicable by December 31, 2014, particularly targeting those customers occupying apartment houses or similar multiunit residential structures, and would require the PUC and electrical corporations and gas corporations to expend all reasonable efforts to coordinate ratepayer-funded programs with other energy conservation and efficiency programs and to obtain additional federal funding to support actions undertaken pursuant to this requirement.

(8) Existing law relative to electrical restructuring requires the PUC to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers.

Existing law requires the PUC to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the PUC, providing baseline rates and requires the PUC, in establishing baseline rates, to avoid excessive rate increases for residential customers.

Existing law enacted during the energy crisis of 2000-01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department's acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law provides that the department is entitled to recover certain expenses resulting from its purchases and sales of electricity and authorizes the PUC to enter into an agreement with the department relative to cost recovery. That law prohibits the PUC from increasing the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities, until the department has recovered the costs of electricity it procured for electrical corporation retail end use customers. That law also suspends the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law.

This bill would delete the prohibition that the PUC not increase

the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities. The bill would authorize the PUC, until January 1, 2019, to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. This authorization would be subject to the limitation that rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, not exceed 90% of the system average rate, as defined. The bill would authorize the PUC to increase the rates for participants in the CARE program, subject to certain limitations. The bill would authorize the PUC to allow individual retail end-use customers currently taking service from an electric service provider, or eligible to take service from an electric service provider under rules adopted by the PUC in existence on January 1, 2008, to acquire service for new accounts, as defined, from an electric service provider. The bill would suspend the right of retail end-use customers to acquire service through a direct transaction until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions.

(9) Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a continuously appropriated fund in the State Treasury and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The 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 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to 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 20% of total retail sales of electricity in California per year by December 31, 2010, and 33% by December 31, 2020. The bill would limit eligible in-state renewable electricity generation facilities to facilities that commence initial operation after January 1, 2005. This limitation would also apply to the California Renewables Portfolio Standard (RPS) Program discussed below.

(10) Existing law expresses the intent of the Legislature, in establishing the ~~California Renewables Portfolio Standard (RPS) Program~~ *RPS program*, to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010.

This bill would express the additional intent that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020.

(11) The Public Utilities Act imposes various duties and responsibilities on the PUC with respect to the purchase of electricity and requires the PUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation, as defined, pursuant to the RPS program. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010.

This bill would instead require that each retail seller increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(12) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision and instead make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(13) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification,

and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations for the enforcement of the RPS program with respect to a local publicly owned electric utility, would require, by October 30, 2009, at a noticed public meeting and in consultation with the State Air Resources Board, to establish an RPS requiring each local publicly owned electric utility to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to the utility's retail end-use customers each calendar year ~~, and, .~~ The bill would require that the RPS established for a local publicly owned electric utility be consistent with certain targets and purposes that are applicable to retail sellers. The bill would require the utility to adopt and implement a renewable energy resources procurement plan that complies with the RPS adopted for the utility by the Energy Commission, would provide that the utility retains discretion with respect to certain matter in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers. The bill would require the Energy Commission, in order to meet the requirements of the RPS program, ~~would require the Energy Commission~~ undertake certain measures in order to substantially increase the amounts of electricity generated by eligible renewable energy resources integrated with and interconnected to specified transmission grids.

(14) Existing law requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will, in order to fulfill its unmet resource needs, until a 20% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated from eligible renewable energy resources, provided sufficient funds are made available to cover the above-market costs for new renewable energy resources pursuant to certain provisions of the Renewable Energy Resources Program. Existing law requires the PUC to make a determination of the existing market cost for electricity (market price referent).

This bill would require that an electrical corporation's proposed procurement plan include a showing that the electrical corporation will, in order to fulfill its unmet resource needs, until a 33% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated from eligible renewable energy resources. The bill would ~~, on January 1, 2010,~~ delete the requirement that the PUC determine the market price referent and delete the limitation on a retail seller's procurement requirements that sufficient funds be made available to cover the above-market costs of electricity.

(15) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first

obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to approve an application for a certificate of public convenience and necessity within one year of the filing of a completed application under specified circumstances and would authorize the PUC, if it finds the costs are justified pursuant to the statutory requirements for approving a rate increase, to allow recovery of certain transmission costs incurred by an electrical corporation.

(16) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.

This bill would require the ISO to undertake all feasible efforts to do certain things and seek the approval of the FERC, if necessary, including adjusting its market structure to achieve, in the most cost-effective manner possible, the increased amount of electricity to be generated by eligible renewable energy resources. The bill would require the PUC to approve reasonable and cost-effective transmission and power line investments that are not under the ratemaking authority of the FERC that are necessary to enable electricity generated by eligible renewable energy resources to be delivered to retail sellers and local publicly owned electric utilities.

(17) This bill would state the intent of the Legislature to appropriate \$3,700,000 from the Public Interest Research, Development, and Demonstration Fund to the Energy Commission for contracts and for interagency agreements with the Department of Fish and Game or other wildlife agencies for the preparation of one or more natural communities conservation plans in the Mojave Desert for the purposes of facilitating the development of solar energy in that region.

(18) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25740 of the Public Resources Code is amended to read:

25740. The Legislature finds and declares that the State Air Resources Board has identified a statewide 33 percent renewables portfolio standard as a key measure to comply with the requirements of the California Global Warming Solutions Act of 2006. It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20 percent of total retail sales of electricity in California per year by December 31, 2010, and 33 percent by December 31, 2020.

SEC. 2. Section 25741 of the Public Resources Code is amended to read:

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

(a) "Delivered" and "delivery" mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section ~~399.13~~

399.25 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or ~~is scheduled for~~ generated at a location outside the state and scheduled for simultaneous consumption by California end-use retail customers. ~~Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered "delivered" regardless of whether the electricity is generated at a different time from consumption by a California end use customer.~~

(b) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

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

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

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network within this state and electricity produced by the facility is delivered to an in-state location.

(B) The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:

(i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.

(ii) *It commences initial commercial operation after January 1, 2005.*

~~—(ii)~~

(iii) Electricity produced by the facility is delivered to an in-state location.

~~—(iii)—~~

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

~~—(iv)—~~

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

~~—(v)—~~

(vi) It participates in the accounting system to verify compliance with the renewables portfolio standard once established by the commission pursuant to subdivision (b) of Section ~~399.13~~ 399.25 of the Public Utilities Code.

(3) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

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

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

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

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

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

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

(H) 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) "Procurement entity" means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.14 of the Public Utilities Code.

(d) "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).

(e) "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.

(f) "Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

SEC. 3. Section 25746 of the Public

Resources Code is amended to read:

25746. (a) One percent of the money collected pursuant to the renewable energy public goods charge shall be used in accordance with this chapter to promote renewable energy and disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(b) If the commission provides funding for a regional accounting system to verify compliance with the renewable portfolio standard by retail sellers, pursuant to subdivision (b) of Section ~~399.13~~ 399.25 of the Public Utilities Code, the commission shall recover all costs from user fees.

SEC. 4. Section 25747 of the Public Resources Code is amended to read:

25747. (a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter or Section ~~399.13~~

399.25 of the Public Utilities Code, shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001-02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

(d) An award made pursuant to this chapter, the amount of the award, and the terms and conditions of the grant are public information.

SEC. 5. Section 25751 of the Public Resources Code is amended to read:

25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby established within the Renewable Resource Trust Fund:

- (1) Existing Renewable Resources Account.
- (2) Emerging Renewable Resources Account.
- (3) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended, only upon appropriation by the Legislature in the annual Budget Act, for the following purposes:

- (1) The administration of this article by the state.
- (2) The state's expenditures associated with the accounting system established by the commission pursuant to subdivision (b) of Section ~~399.13~~ 399.25 of the Public Utilities

Code.

(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 25740.5. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

~~SEC. 3.~~ SEC. 6. Section 305 of the Public Utilities Code is amended to read:

305. The Governor shall appoint, subject to the approval of the Senate, a president of the commission from among the members of the commission. The president shall preside at all meetings and sessions of the commission.

~~SEC. 4.~~ SEC. 7. Section 306 of the Public Utilities Code is amended to read:

306. (a) The office of the commission shall be in the City and County of San Francisco. The office shall always be open, legal holidays and nonjudicial days excepted. The commission shall hold its sessions at least once in each calendar month in the City and County of San Francisco. The commission shall hold at least one session in each calendar month in the City of Sacramento. The commission may

also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties, and for that purpose may rent quarters or offices.

(b) The meetings of the commission shall be open and public in accordance with the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

In addition to the requirements of Section 11125 of the Government Code, the commission shall include in its notice of meetings the agenda of business to be transacted, and no item of business shall be added to the agenda subsequent to the notice in the absence of an unforeseen emergency situation. A rate increase shall not constitute an unforeseen emergency situation. As used in this subdivision, "meeting" shall include all investigations, proceedings, and showings required by law to be open and public.

(c) The commission shall have a seal, bearing the inscription "Public Utilities Commission State of California." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct.

(d) The commission may procure all necessary books, maps, charts, stationery, instruments, office furniture, apparatus, and appliances.

~~SEC. 5.~~ SEC. 8. Section 307 of the Public Utilities Code is amended to read:

307. (a) The commission may appoint as attorney to the commission an attorney at law of this state, who shall hold office during the pleasure of the commission.

(b) The attorney shall represent and appear for the people of the State of California and the commission in all actions and proceedings involving any question under this part or under any order or act of the commission. If directed to do so by the commission, the attorney shall intervene, if possible, in any action or proceeding in which any such question is involved.

(c) The attorney shall commence, prosecute, and expedite the final determination of all actions and proceedings directed or authorized by the commission, advise the commission and each commissioner, when so requested, in regard to all matters in connection with the powers and duties of the commission and the members thereof, and generally perform all duties and services as attorney to the commission that the commission may require of him or her.

~~SEC. 6.~~ SEC. 9. Section 308 of the Public Utilities Code is amended to read:

308. (a) The commission shall appoint an executive director, who shall hold office during its pleasure. The executive director shall be responsible for the commission's executive and administrative duties and shall organize, coordinate, supervise, and direct the operations and affairs of the commission and expedite all matters within the commission's jurisdiction.

(b) The executive director shall keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform the other duties the commission prescribes. The commission may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the commission may prescribe.

(c) The commission may appoint assistant executive directors who may serve warrants and other process in any county or city and county

of this state.

~~SEC. 7.~~ SEC. 10. Section 327 of the Public Utilities Code is amended to read:

327. (a) The electrical corporations and gas corporations that participate in the California Alternate Rates for Energy program, as established pursuant to Section 739.1, shall administer low-income energy efficiency and rate assistance programs described in Sections 382, 739.1, 739.2, and 2790, subject to commission oversight. In administering the programs described in Section 2790, the electrical corporations and gas corporations, to the extent ~~practical~~ practicable, shall do all of the following:

(1) Continue to leverage funds collected to fund the program described in subdivision (a) with funds available from state and federal sources.

(2) Work with state and local agencies, community-based organizations, and other entities to ensure efficient and effective delivery of programs.

(3) Encourage local employment and job skill development.

(4) Maximize the participation of eligible participants.

(5) Work to reduce consumers electric and gas consumption, and bills.

(6) For electrical corporations only, target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage, and develop programs that specifically target new construction by, and new and retrofit appliances for, nonprofit affordable housing providers.

(b) If the commission requires low-income energy efficiency programs to be subject to competitive bidding, the electric and gas corporation described in subdivision (a), as part of their bid evaluation criteria, shall consider both cost-of-service criteria and quality-of-service criteria. The bidding criteria, at a minimum, shall recognize all of the following factors:

(1) The bidder's experience in delivering programs and services, including, but not limited to, weatherization, appliance repair and maintenance, energy education, outreach and enrollment services, and bill payment assistance programs to targeted communities.

(2) The bidder's knowledge of the targeted communities.

(3) The bidder's ability to reach targeted communities.

(4) The bidder's ability to utilize and employ people from the local area.

(5) The bidder's general contractor's license and evidence of good standing with the Contractors' State License Board.

(6) The bidder's performance quality as verified by the funding source.

(7) The bidder's financial stability.

(8) The bidder's ability to provide local job training.

(9) Other attributes that benefit local communities.

(c) Notwithstanding subdivision (b), the commission may modify the bid criteria based upon public input from a variety of sources, including representatives from low-income communities and the program administrators identified in subdivision (b), in order to ensure the effective and efficient delivery of high quality low-income energy efficiency programs.

~~SEC. 8.~~ SEC. 11. Section 382 of the Public Utilities Code is amended to read:

382. (a) Programs provided to low-income electricity customers,

including, but not limited to, targeted energy-efficiency services and the California Alternate Rates for Energy program shall be funded at not less than 1996 authorized levels based on an assessment of customer need.

(b) In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures. Energy expenditure may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs.

(c) Nothing in this section shall be construed to prohibit electric and gas providers from offering any special rate or program for low-income ratepayers that is not specifically required in this section.

(d) The commission shall allocate funds necessary to meet the low-income objectives in this section.

(e) Beginning in 2002, an assessment of the needs of low-income electricity and gas ratepayers shall be conducted periodically by the commission with the assistance of the Low-Income Oversight Board. The assessment shall evaluate low-income program implementation and the effectiveness of weatherization services and energy efficiency measures in low-income households. The assessment shall consider whether existing programs adequately address low-income electricity and gas customers' energy expenditures, hardship, language needs, and economic burdens.

(f) The commission shall require electrical corporations to deploy enhanced low-income energy efficiency programs designed to reach as many eligible customers as practicable by December 31, 2014, particularly targeting those customers occupying apartment houses or similar multiunit residential structures. The commission and electrical corporations and gas corporations shall make all reasonable efforts to coordinate ratepayer-funded programs with other energy conservation and efficiency programs and to obtain additional federal funding to support actions undertaken pursuant to this subdivision. For purposes of this subdivision, "enhanced programs" are programs that provide long-term reductions in energy consumption at the dwelling unit based on an audit or assessment of the dwelling unit, and may include improved insulation, energy efficient appliances, measures that utilize solar energy, and other cost-effective improvements to the physical structure.

~~SEC. 9.~~ SEC. 12. Section 387 of the Public Utilities Code is repealed.

~~SEC. 10.~~ SEC. 13. 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 retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and 33 percent by December 31, 2020, and for the purposes of increasing the diversity, reliability, public health, and environmental benefits of the energy mix, reducing emissions of greenhouse gases, and promoting economic development 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) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

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

(e) New and modified electric transmission facilities will be necessary to facilitate the state achieving its renewables portfolio standard targets.

~~SEC. 11.~~ SEC. 14. Section 399.12 of the Public Utilities Code is amended to read:

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

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

(b) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) "Eligible renewable energy resource" means an electric generating facility that meets the definition of "in-state renewable electricity generation facility" in Section 25741 of the Public Resources Code, subject to the following:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller or local publicly owned electric utility owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

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

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

(d) "Procure" means that a retail seller or local publicly owned electric utility receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has

entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 387.

(e) (1) "Renewable energy credit" means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through the accounting system established by the Energy Commission pursuant to Section ~~399.13~~ 399.25 , that one unit of electricity was generated and delivered by an eligible renewable energy resource.

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

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(f) "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 , for an electrical corporation , and pursuant to Section 385 for a local publicly owned electric utility.

(g) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

(h) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

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

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

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or

producing electricity consistent with subdivision (b) of Section 218.

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

(C) A local publicly owned electric utility.

~~SEC. 12.~~ SEC. 15. Section 399.13 of the Public Utilities Code is amended and renumbered to read:

~~399.13.~~ 399.25. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (c) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers and local publicly owned electric utilities, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers and local publicly owned electric utilities, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Certify, for purposes of compliance with the renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that all of ~~the following conditions have been satisfied.~~

~~—(1) The local publicly owned electric utility has established an annual 33 percent renewables portfolio standard target comparable to those applicable to an electrical corporation, and is procuring sufficient eligible renewable energy resources to satisfy the target standard, and will not fail to satisfy the target standard in the event that the renewable energy credit is sold to another retail seller.~~

~~—(2) Each local publicly owned electric utility reports, on an annual basis, to its customers, and to the Energy Commission, all of the following:~~

~~—(A) Expenditures of funds collected pursuant to the renewable energy public goods charge for eligible renewable energy resource~~

development. Reports shall contain a description of programs, expenditures, and expected or actual results.

~~—(B) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller. Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard if it were delivered to a retail seller.~~

~~—(C) — The utility's status in implementing a 33 percent renewables portfolio standard pursuant to paragraph (2) of subdivision (f).— the conditions of Section 399.31 have been met.~~

(e) In consultation with the State Air Resources Board, adopt regulations for the enforcement of this article with respect to a local publicly owned electric utility. The regulations shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' notice shall be given to the public of any meeting held for purposes of adopting the regulations. Not less than 10 days' notice shall be given to the public before any meeting is held to make a substantive change to the regulations. ~~The~~ *Until such time as there is a market mechanism established and implemented for the distribution and purchase of emission allowances for greenhouse gases, the regulations shall provide for the imposition of penalties by the State Air Resources Board pursuant to Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code, upon referral and recommendation by the commission, for failure to comply with this article.*

(f) (1) By October 30, 2009, at a duly noticed public meeting and in consultation with the State Air Resources Board, establish a renewables portfolio standard requiring each local publicly owned electric utility to procure a minimum quantity of electricity generated by eligible renewable energy resources, including renewable energy credits, as a specified percentage of total kilowatthours sold to the utility's retail end-use customers each calendar year.

The renewables portfolio standard shall be consistent with the target of generating 33 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2020, and the purposes set forth in subdivisions (a), (b), and (c) of Section 399.11. The Energy Commission shall enforce the renewables portfolio standard upon its establishment.

~~—(2) Every three years, each local publicly owned electric utility shall post notice in accordance with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code whenever its governing body will deliberate in public on its renewable energy resources procurement plan.~~

~~—(A) Contemporaneous with the posting of the notice of a public meeting to consider the energy resources procurement plan, the local publicly owned electric utility shall notify the Energy Commission of the date, time, and location of the meeting so the Energy Commission may post the information on its Internet Web site. This requirement~~

~~is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to this information.~~

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

~~—(3) Within 30 business days after a local publicly owned electric utility enters into a renewable resource procurement contract, the local publicly owned electric utility shall submit to the Energy Commission documentation that includes all of the following.~~

~~—(A) A description of the renewable resource and the terms of the contract.~~

~~—(B) A description and identification of the electric generating facility providing the renewable energy resource under the contract.~~

~~—(C) An explanation as to how the electricity generated by that facility will be certified as having been generated by an eligible renewable energy resource and how that electricity will be used to serve the load of the local publicly owned electric utility.~~

~~—(D) An explanation as to how the contract supports the local publicly owned electric utility's renewables portfolio standard.~~

~~—(g) In order for the state to meet the requirements of the California Renewables Portfolio Standard Program, substantially increased amounts of electricity generated by eligible renewable energy resources must be integrated with, and interconnected to, the transmission grid that is either owned by, or under the operational control of, the local publicly owned electric utilities and the transmission grid that is under the operational control of the Independent System Operator.~~

~~—(h) The Energy Commission, in consultation and cooperation with the Independent System Operator and local publicly owned electric utility balancing authorities, shall facilitate a process for the execution of so called "seams agreements" between balancing authorities providing for the joint operation and cooperative scheduling of separately owned and operated but interconnected transmission grid systems in a way that optimizes the available transfer capacity of the combined statewide system, respects the long term physical transmission rights of each party, and provides cost certainty. The Energy Commission shall facilitate all of the following:~~

~~—(1) The development of annual statewide transmission plans that incorporate local publicly owned electric utility transmission plans and any potential joint privately owned and local publicly owned electric utility infrastructure projects, with the goal of minimizing the aggregate amount and cost of new transmission needed statewide to meet both reliability needs and renewables portfolio standard targets.~~

~~—(2) The siting and approval of new transmission lines that can be jointly owned or utilized by electrical corporations, merchant transmission companies, and local publicly owned electric utilities, and can be jointly operated by the Independent System Operator and local publicly owned electric utility balancing authorities.~~

(2) A local publicly owned electric utility shall retain discretion over the manner employed by the utility to meet the renewables portfolio standard established pursuant to this subdivision. The discretionary authority of a local publicly owned electric utility includes, but is not limited to, all of the following:

(A) The mix of eligible renewable energy resources procured or owned by the utility and those additional generation resources procured or owned by the utility for purposes of ensuring resource adequacy and reliability.

(B) The prices paid by the utility for electricity generated by eligible renewable energy resources.

(C) The reasonable costs incurred by the utility for renewable energy resources owned by the utility.

~~SEC. 13.~~ SEC. 16. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) (1) The commission shall direct each electrical corporation to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(2) The commission shall adopt, by rulemaking, all of the following:

~~—(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.~~

~~—(B)~~

(A) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources. This process shall also consider, but shall not be limited to, the cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio, system reliability, and the environmental and economic benefits of procuring renewable energy.

~~—(C) (i)~~

(B) Flexible rules for compliance, including rules permitting retail sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply to all years, including years before and after

a retail seller procures at least 20 percent by 2010, and 33 percent by 2020, of total retail sales of electricity from eligible renewable energy resources.

~~—(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission that the retail seller has undertaken all reasonable efforts to do all of the following:~~

~~—(I) Utilize flexible delivery points.~~

~~—(II) Ensure the availability of any needed transmission capacity.~~

~~—(III) If the retail seller is an electric corporation, to construct needed transmission facilities.~~

~~—(IV) Nothing in this subparagraph shall be construed to revise any portion of Section 454.5.~~

~~—(D)~~

(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 shall, at a minimum, 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.

(3) 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. This assessment shall be consistent with the electrical corporation's long-term portfolio planning conducted pursuant to Section 454.5 and shall consider the electrical corporation's optimal portfolio to reach the state's goals for reducing emissions of greenhouse gases. Consistent with an electrical corporation's long-term portfolio planning, the commission may require analyses, including, but not limited to, the rate impact, effects on system reliability, and the environmental and economic benefits of the proposed procurement.

(B) Strategies for employing available compliance flexibility mechanisms established by the commission.

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

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

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

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

(B) The commission shall report to the Legislature by January 1, 2012, and every two years thereafter, on the progress and status of procurement activities, the identification of barriers, and policy recommendations for achieving the goals set forth in this paragraph.

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

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

(d) (1) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(2) *The commission shall establish project development milestones to evaluate the potential for compliance with the adopted renewable procurement plan and a set of actions that will occur as a result of not meeting those milestones. These actions may include, but shall not be limited to, determining a cure period for failure to meet milestones, a suspense period on the contract online date for events beyond the developer's control that cause a failure to meet milestones, allow other developers that are prepared to go forward to move ahead of suspended contracts, and forfeiture of deposits.*

(e) The commission, in consultation with the State Air Resources Board, shall adopt rules for the enforcement of this article with respect to retail sellers. The rules shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' notice shall be given to the public of any meeting held for purposes of adopting the rules. Not less than 10 days' notice shall be given to the public before any meeting is held to make a substantive change to the rules. The rules shall provide for the imposition of penalties by the State Air Resources Board pursuant to Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code, upon referral and recommendation by the commission, for failure to comply with this article. Nothing in this subdivision precludes the imposition of any other penalties under any other provision of law.

(f) (1) The commission may authorize a procurement entity to enter

into contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy annual renewables portfolio standard obligations. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

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

(g) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission shall be deemed reasonable and shall be recoverable in rates.

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

~~—(i) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

~~—SEC. 14.— Section 399.14 is added to the Public Utilities Code, to read:~~

~~— 399.14. (a) (1) The commission shall direct each electrical corporation to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.~~

~~—(2) The commission shall adopt, by rulemaking, all of the following:~~

~~—(A) A process that provides criteria for the rank ordering and selection of least cost and best fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources. This process shall also consider, but not be limited to, the cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio, system reliability, and the environmental and economic benefits of procuring renewable energy.~~

~~—(B) Flexible rules for compliance, including rules permitting retail sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply~~

~~to all years, including years before and after a retail seller procures at least 20 percent by 2010, and 33 percent by 2020, of total retail sales of electricity from eligible renewable energy resources.~~

~~—(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 shall, at a minimum, 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.~~

~~—(3) 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. This assessment shall be consistent with the electrical corporation's long term portfolio planning conducted pursuant to Section 454.5 and shall consider the electrical corporation's optimal portfolio to reach the state's goals for reducing emissions of greenhouse gases. Consistent with an electrical corporation's long term portfolio planning, the commission may require analyses, including, but not limited to, the rate impact, effects on system reliability, and the environmental and economic benefits of the proposed procurement.~~

~~—(B) Strategies for employing available compliance flexibility mechanisms established by the commission.~~

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

~~—(D) A status update on the development schedule of all eligible renewable resources currently under contract.~~

~~—(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.~~

~~—(5) (A) In soliciting and procuring eligible renewable energy resources for California based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.~~

~~—(B) The commission shall report to the Legislature by January 1, 2012, and every two years thereafter, on the progress and status of procurement activities, the identification of barriers, and policy recommendations for achieving the goals set forth in this paragraph.~~

~~—(b) A retail seller may enter into a combination of long and short term contracts for delivery of electricity and associated renewable energy credits. The commission may authorize a retail~~

~~seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years' duration.~~

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

~~—(d) (1) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.~~

~~—(2) The commission shall establish project development milestones to evaluate the potential for compliance with the adopted renewable procurement plan and a set of actions that will occur as a result of not meeting those milestones. These actions may include, but shall not be limited to, determining a cure period for failure to meet milestones, a suspense period on the contract online date for events beyond the developer's control that cause a failure to meet milestones, allow other developers that are prepared to go forward to move ahead of suspended contracts, and forfeiture of deposits.~~

~~—(e) The commission, in consultation with the State Air Resources Board, shall adopt rules for the enforcement of this article with respect to retail sellers. The rules shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' notice shall be given to the public of any meeting held for purposes of adopting the rules. Not less than 10 days' notice shall be given to the public before any meeting is held to make a substantive change to the rules. The rules shall provide for the imposition of penalties by the State Air Resources Board pursuant to Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code, upon referral and recommendation by the commission, for failure to comply with this article. Nothing in this subdivision precludes the imposition of any other penalties under any other provision of law.~~

~~—(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy annual renewables portfolio standard obligations. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.~~

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

~~—(g) Procurement and administrative costs associated with long term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by~~

~~the commission shall be deemed reasonable and shall be recoverable in rates.~~

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

~~—(i) This section shall become operative on January 1, 2010.~~

~~SEC. 15.~~ SEC. 17. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) The commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year ~~—, subject to limits for electrical corporations on the total amount of costs expended above the market prices determined in subdivision (c),~~ to achieve the targets established under this article.

(b) The commission shall implement annual procurement targets for each retail seller as follows:

(1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010, and 33 percent no later than December 31, 2020, if the commission determines that achieving these targets will result in just and reasonable rates. A retail seller with 33 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources in the following year.

(2) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and to the extent applicable, adjusted ~~going forward~~ in subsequent years pursuant to Section 399.12.

(3) Only for purposes of establishing these targets, the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(4) If a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall ~~—, subject to the limitation on costs for electrical corporations established pursuant to subdivision (d).~~

~~—(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the following:~~

~~—(1) The long term market price of electricity for fixed price~~

~~contracts, determined pursuant to an electrical corporation's general procurement activities as authorized by the commission.~~

~~—(2) The long term ownership, operating, and fixed price fuel costs associated with fixed price electricity from new generating facilities.~~

~~—(3) The value of different products including baseload, peaking, and as available electricity.~~

~~—(d) The commission shall establish, for each electrical corporation, a limitation on the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources to achieve the annual procurement targets established under this article.~~

~~—(1) The cost limitation shall be equal to the amount of funds transferred to each electrical corporation by the Energy Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code and the 51.5 percent of the funds which would have been collected through January 1, 2012, from the customers of the electrical corporation based on the renewable energy public goods charge in effect as of January 1, 2007.~~

~~—(2) The above market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:~~

~~—(A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision (d) of Section 399.14.~~

~~—(B) The contract covers a duration of no less than 10 years.~~

~~—(C) No purchases of renewable energy credits may be eligible for consideration as an above market cost.~~

~~—(D) The above market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.~~

~~—(3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c).~~

~~—(4) - Nothing in this section prevents an electrical corporation from voluntarily proposing to procure eligible renewable energy resources at above market prices that are not counted toward the cost limitation. Any voluntary procurement involving above market costs shall be subject to commission approval prior to the expense being recovered in rates.~~

~~—(e)~~

~~(c) 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).~~

~~—(f)~~

~~(d) The commission shall consult with the Energy~~

Commission in ~~calculating market prices under subdivision~~
~~(e) and~~ establishing ~~other~~ renewables
portfolio standard policies.

~~—(g)—~~

(e) An electrical corporation shall submit a contract
for eligible renewable energy resources to the commission for review,
pursuant to the electrical corporation's approved renewable energy
procurement plan.

(1) In conducting a review, the commission shall do all of the
following:

(A) Consider system reliability.

(B) Consider the value of different generation characteristics
including peaking, dispatchable, baseload, and firm and as-available
capacity of renewable projects.

(C) Make an assessment of the price risk associated with the
electrical corporation's renewable energy portfolio, including any
proposed contracts or purchases under which an electrical corporation
will procure renewable energy.

(2) The costs of contracts for eligible renewable energy resources
that have been approved by the commission shall be recoverable in
rates of electrical corporations.

~~—(h) This section shall remain in effect only until January 1,~~
~~2010, and as of that date is repealed, unless a later enacted~~
~~statute, that is enacted before January 1, 2010, deletes or extends~~
~~that date.~~

~~—SEC. 16.— Section 399.15 is added to the Public~~
~~Utilities Code, to read:~~

~~—399.15.— (a) The commission shall establish a renewables portfolio~~
~~standard requiring all retail sellers to procure a minimum quantity~~
~~of electricity generated by eligible renewable energy resources as a~~
~~specified percentage of total kilowatthours sold to their retail~~
~~end use customers each calendar year to achieve the targets~~
~~established under this article.~~

~~—(b) The commission shall implement annual procurement targets for~~
~~each retail seller as follows:~~

~~—(1) Each retail seller shall, pursuant to subdivision (a),~~
~~increase its total procurement of eligible renewable energy resources~~
~~by at least an additional 1 percent of retail sales per year so that~~
~~20 percent of its retail sales are procured from eligible renewable~~
~~energy resources no later than December 31, 2010, and 33 percent no~~
~~later than December 31, 2020, if the commission determines that~~
~~achieving these targets will result in just and reasonable rates. A~~
~~retail seller with 33 percent of retail sales procured from eligible~~
~~renewable energy resources in any year shall not be required to~~
~~increase its procurement of renewable energy resources in the~~
~~following year.~~

~~—(2) For purposes of setting annual procurement targets, the~~
~~commission shall establish an initial baseline for each retail seller~~
~~based on the actual percentage of retail sales procured from~~
~~eligible renewable energy resources in 2001, and to the extent~~
~~applicable, adjusted in subsequent years pursuant to Section 399.12.~~

~~—(3) Only for purposes of establishing these targets, the~~
~~commission shall include all electricity sold to retail customers by~~
~~the Department of Water Resources pursuant to Section 80100 of the~~
~~Water Code in the calculation of retail sales by an electrical~~
~~corporation.~~

~~—(4) If a retail seller fails to procure sufficient eligible~~

~~renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall.~~

~~—(c) 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).~~

~~—(d) The commission shall consult with the Energy Commission in establishing renewables portfolio standard policies.~~

~~—(e) An electrical corporation shall submit a contract for eligible renewable energy resources to the commission for review, pursuant to the electrical corporation's approved renewable energy procurement plan.~~

~~—(1) In conducting a review, the commission shall do all of the following:~~

~~—(A) Consider system reliability.~~

~~—(B) Consider the value of different generation characteristics including peaking, dispatchable, baseload, and firm and as available capacity of renewable projects.~~

~~—(C) Make an assessment of the price risk associated with the electrical corporation's renewable energy portfolio, including any proposed contracts or purchases under which an electrical corporation will procure renewable energy.~~

~~—(2) The costs of contracts for eligible renewable energy resources that have been approved by the commission shall be recoverable in rates of electrical corporations.~~

~~—(f) This section shall become operative on January 1, 2010.~~

SEC. 18. Section 399.16 of the Public Utilities Code is amended to read:

399.16. (a) The commission, by rule, may authorize the use of renewable energy credits to satisfy the requirements of the renewables portfolio standard established pursuant to this article, subject to the following conditions:

(1) Prior to authorizing any renewable energy credit to be used toward satisfying annual procurement targets, the commission and the Energy Commission shall conclude that the tracking system established pursuant to subdivision (c) of Section ~~399.13~~

399.25, is operational, is capable of independently verifying the electricity generated by an eligible renewable energy resource and delivered to the retail seller, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the Western Electricity Coordinating Council (WECC).

(2) A renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state.

(3) The electricity is delivered to a retail seller, the Independent System Operator, or a local publicly owned electric utility.

(4) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.

(5) No renewable energy credits shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before

January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in subdivision (b) of Section ~~399.13~~ 399.25 and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(6) No renewable energy credits shall be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count toward the renewables portfolio standard obligations of the purchasing retail seller.

(7) The commission may limit the quantity of renewable energy credits that may be procured unbundled from electricity generation by any retail seller, to meet the requirements of this article.

(8) No electrical corporation shall be obligated to procure renewable energy credits to satisfy the requirements of this article in the event that the total costs expended above the applicable market prices for the procurement of eligible renewable energy resources exceeds the cost limitation established pursuant to subdivision (d) of Section 399.15.

(9) Any additional condition that the commission determines is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.

SEC. 19. Section 399.17 of the Public Utilities Code is amended to read:

399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California.

(b) For an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, an eligible renewable energy resource includes a facility that is located outside California, if the facility is connected to the Western Electricity Coordinating Council (WECC) transmission system, provided all of the following conditions are met:

(1) The electricity generated by the facility is procured by the electrical corporation on behalf of its California customers, and is not used to fulfill renewable energy procurement requirements in other states.

(2) The electrical corporation participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section ~~399.13~~ 399.25

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the annual procurement targets of this article.

(c) The commission shall determine the annual procurement targets for an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in

California in a calendar year.

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, ~~399.13, and~~ 399.14, and 399.25, as modified by this section.

(e) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates of the electrical corporation's California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation.

~~SEC. 17.~~ SEC. 20. Section 399.22 is added to the Public Utilities Code, to read:

399.22. (a) In order for the state to meet the requirements of the California Renewables Portfolio Standard Program, substantially increased amounts of electricity generated by eligible renewable energy resources must be integrated with, and interconnected to, the transmission grid that is under the operational control of the Independent System Operator.

(b) The Independent System Operator shall undertake all feasible efforts to do all of the following, and shall seek the approval of the Federal Energy Regulatory Commission, if necessary:

(1) Adjust its market structure to achieve, in the most cost-effective manner possible, a minimum of 33 percent of electricity generated from eligible renewable energy resources by December 31, 2020.

(2) In consultation and cooperation with local publicly owned electric utilities develop annual statewide transmission plans that incorporate local publicly owned electric utility transmission plans and any potential joint privately owned and local publicly owned electric utility infrastructure projects, with the goal of minimizing the aggregate amount and cost of new transmission needed statewide to meet both reliability needs and renewable energy targets.

(3) Seek proposals from, and propose transmission projects to, local publicly owned electric utilities that can be jointly owned by electrical corporations, merchant transmission companies, and local publicly owned electric utilities, and can be jointly operated by the Independent System Operator and local publicly owned electric utility balancing authorities.

(4) Eliminate barriers established by the Independent System Operator over transmission lines in its control area.

(c) The commission shall approve reasonable and cost-effective transmission and power line investments that are not under the ratemaking authority of the Federal Energy Regulatory Commission and that are necessary to enable electricity generated by eligible renewable energy resources to be delivered to retail sellers and local publicly owned electric utilities.

SEC. 21. Section 399.26 is added to the Public Utilities Code , to read:

399.26. (a) In order for the state to meet the requirements of the California Renewables Portfolio Standard Program, substantially increased amounts of electricity generated by eligible renewable energy resources must be integrated with, and interconnected to, the transmission grid that is either owned by, or under the operational control of, the local publicly owned electric utilities and the transmission grid that is under the operational control of the Independent System Operator.

(b) The Energy Commission, in consultation and cooperation with the Independent System Operator and local publicly owned electric utility balancing authorities, shall facilitate a process for the execution of so-called "seams agreements" between balancing authorities providing for the joint operation and cooperative scheduling of separately owned and operated but interconnected transmission grid systems in a way that optimizes the available transfer capacity of the combined statewide system, respects the long-term physical transmission rights of each party, and provides cost certainty. The Energy Commission shall facilitate both of the following:

(1) The development of annual statewide transmission plans that incorporate local publicly owned electric utility transmission plans and any potential joint privately owned and local publicly owned electric utility infrastructure projects, with the goal of minimizing the aggregate amount and cost of new transmission needed statewide to meet both reliability needs and renewables portfolio standard targets.

(2) The siting and approval of new transmission lines that can be jointly owned or utilized by electrical corporations, merchant transmission companies, and local publicly owned electric utilities, and can be jointly operated by the Independent System Operator and local publicly owned electric utility balancing authorities.

SEC. 22. Section 399.30 is added to the Public Utilities Code , 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 complies with the renewables portfolio standard adopted by the Energy Commission pursuant to subdivision (f) of Section 399.25.

(b) (1) Every three years, each local publicly owned electric utility shall post notice in accordance with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code whenever its governing body will deliberate in public on its renewable energy resources procurement plan.

(2) Contemporaneous with the posting of the notice of a public meeting to consider the energy resources procurement plan, the local publicly owned electric utility shall notify the Energy Commission of the date, time, and location of the meeting so the Energy Commission may post the information on its Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to this information.

(3) Upon distribution to its governing body of information related to its renewable energy resource procurement status and future plans, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make that information available to the public and shall provide the Energy Commission with an

electronic copy of the documents for posting on the Energy Commission's Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to the documents or information regarding other manners of access to the documents.

(c) Within 30 business days after a local publicly owned electric utility executes a renewable resource procurement contract, the local publicly owned electric utility shall submit to the Energy Commission documentation that includes all of the following:

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

(2) A description and identification of the electric generating facility providing the eligible renewable energy resource under the contract.

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

(d) (1) A local publicly owned electric utility may use renewable energy credits to meet its renewables portfolio standard procurement requirements to the same extent and under the same circumstances as a retail seller is authorized to use renewable energy credits to meet the retail seller's renewables portfolio standard procurement requirements.

(2) A local publicly owned electric utility shall not sell renewable energy credits to a retail seller if the utility is not in compliance with its renewables portfolio standard procurement requirements or if, as a result of the sale, the utility would fail to meet its procurement requirements.

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

(1) Expenditures of funds collected pursuant to the renewable energy public goods charge for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, expected results, and actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller. Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard if it were delivered to a retail seller.

(3) The utility's status in implementing the renewables portfolio standard adopted by the Energy Commission for the utility pursuant to subdivision (f) of Section 399.25.

SEC. 23. Section 399.31 is added to the Public Utilities Code , to read:

399.31. A retail seller may procure renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, for purposes of compliance with the renewables portfolio standard requirements, if both of the following conditions are met:

(a) The local publicly owned electric utility has adopted and

implemented a renewable energy resources procurement plan that complies with the renewables portfolio standard adopted by the Energy Commission pursuant to subdivision (f) of Section 399.25.

(b) The local publicly owned electric utility is procuring sufficient eligible renewable energy resources to satisfy the target standard, and will not fail to satisfy the target standard in the event that the renewable energy credit is sold to the retail seller.

~~SEC. 18.~~ SEC. 24. Section 454.5 of the Public Utilities Code is amended to read:

454.5. (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, until a 33 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.

(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. 19.~~ SEC. 25. Section 739.1 of the Public Utilities Code is amended to read:

739.1. (a) The commission shall establish a program of assistance to low-income electric and gas customers with annual household incomes at or below 200 percent of the federal poverty guideline levels, the cost of which shall be recovered on an equal cent-per-kilowatthour or equal cents-per-therm basis from all classes of customers that were subject to the surcharge that funded the program on January 1, 2008. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(b) The commission shall work with the public utility electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism. Administrative costs shall include, but are not limited to, outreach, marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.

(c) The commission shall examine methods to improve CARE enrollment and participation. This examination shall include, but

need not be limited to, comparing information from CARE and the Universal Lifeline Telephone Service (ULTS) to determine the most effective means of utilizing that information to increase CARE enrollment, automatic enrollment of ULTS customers who are eligible for the CARE program, customer privacy issues, and alternative mechanisms for outreach to potential enrollees. The commission shall ensure that a customer consents prior to enrollment. The commission shall consult with interested parties, including ULTS providers, to develop the best methods of informing ULTS customers about other available low-income programs, as well as the best mechanism for telephone providers to recover reasonable costs incurred pursuant to this section.

(d) (1) The commission shall improve the CARE application process by cooperating with other entities and representatives of California government, including the California Health and Human Services Agency and the Secretary of California Health and Human Services, to ensure that all gas and electric customers eligible for public assistance programs in California that reside within the service territory of an electrical corporation or gas corporation, are enrolled in the CARE program. To the extent practicable, the commission shall develop a CARE application process using the existing ULTS application process as a model. The commission shall work with public utility electrical and gas corporations and the Low-Income Oversight Board established in Section 382.1 to meet the low-income objectives in this section.

(2) The commission shall ensure that an electrical corporation or gas corporation with a commission-approved program to provide discounts based upon economic need in addition to the CARE program, including a Family Electric Rate Assistance program, utilize a single application form, to enable an applicant to alternatively apply for any assistance program for which the applicant may be eligible. It is the intent of the Legislature to allow applicants under one program, that may not be eligible under that program, but that may be eligible under an alternative assistance program based upon economic need, to complete a single application for any commission-approved assistance program offered by the public utility.

(e) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including

women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

(f) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional surcharges attributable to the energy crisis of 2000-01.

(g) (1) As used in this subdivision, the following terms have the following meanings:

(A) "Baseline quantity" has the same meaning as defined in Section

739.

(B) "California Solar Initiative" means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the commission in Decision 05-12-044 and Decision 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.

(C) "CalWORKs program" means the program established pursuant to the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 the Welfare and Institutions Code).

(D) "Public ~~good~~ goods charge" means the nonbypassable separate rate component imposed pursuant to Article 7 (commencing with Section 381) or Chapter 2.3 and the nonbypassable system benefits charge imposed pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3).

(2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year. The CARE rate for usage above 130 percent of baseline quantities may be adjusted annually by up to 3 percent, but not to exceed the annual percentage increase in benefits under the CalWORKs program. This paragraph shall become inoperative on January 1, 2019, unless a later enacted statute deletes or extends that date.

(3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program participants pursuant to Sections 739, 739.1, and 739.9, subject to the requirements of subdivision (b) of Section 382 that the commission ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.

(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80 percent of the corresponding rates charged residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any charge imposed to fund any other program that exempts CARE participants from paying the charge.

(5) Rates charged CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any other charge imposed to fund a program that exempts CARE participants from paying the charge. Any additional revenues collected by an electrical corporation resulting from the adoption of a tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate

design, be tracked and credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.

~~SEC. 20.~~ SEC. 26. Section 739.9 is added to the Public Utilities Code, to read:

739.9. (a) The commission may, subject to the limitation in subdivision (b), increase the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities, as defined in Section 739, by the annual percentage change in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per year. For purposes of this subdivision, the annual percentage change in the Consumer Price Index shall be calculated using the same formula that was used to determine the annual Social Security Cost of Living Adjustment on January 1, 2008. This subdivision shall become inoperative on January 1, 2019, unless a later enacted statute deletes or extends that date.

(b) The rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, shall not exceed 90 percent of the system average rate prior to January 1, 2019, and may not exceed 92.5 percent after that date. For purposes of this subdivision, the system average rate shall be determined by dividing the electrical corporation's total revenue requirements for bundled service customers by the adopted forecast of total bundled service sales.

(c) This section does not require the commission to raise any residential rate or restrict, or otherwise limit, the authority of the commission to reduce any residential rate in effect immediately preceding January 1, 2009.

~~SEC. 21.~~ SEC. 27. Section 745 is added to the Public Utilities Code, to read:

745. (a) The commission shall not require or permit an electrical corporation to employ mandatory dynamic pricing for residential customers.

(b) The commission may authorize an electrical corporation to offer residential customers the option of receiving service pursuant to dynamic pricing.

(c) The commission may, beginning January 1, 2016, authorize an electrical corporation to employ default dynamic pricing for residential customers, if the customer has the option of receiving service pursuant to a rate schedule that is not based upon dynamic pricing. The commission shall only approve an electrical corporation's default use of dynamic pricing if residential customers that exercise the option to not receive service pursuant to dynamic pricing incur no additional costs as a result of the exercise of that option.

~~SEC. 22.~~ SEC. 28. Section 1005.1 is added to the Public Utilities Code, to read:

1005.1. (a) The commission shall approve an application for a certificate within one year of the date of filing of the completed application, when all of the following are true:

(1) The application is for a certificate for building or upgrading an electrical transmission line.

(2) The transmission line is needed to provide transmission to load centers for electricity generated in a high priority renewable energy zone or is reasonably necessary to facilitate achievement of the renewables portfolio standard established in Article 16

(commencing with Section 399.11) of Chapter 2.3.

(3) The commission has not expressly found any of the following:

(A) That the investment is not reasonable and necessary to maintain or enhance reliability of the transmission grid.

(B) That the building or upgrading of the electrical transmission line will not maintain or enhance efficient use of the transmission grid.

(C) That the transmission line fails to meet other applicable standards and requirements for approval and construction.

(D) That the transmission line threatens substantial harm to the environment that necessitates an extension of time for completion of review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(b) The commission may, if it finds that the costs were justified pursuant to subdivision (a) of Section 454, allow recovery in rates of any increase in transmission costs incurred by an electrical corporation in planning, designing, and engineering the reconfiguration, replacement, expansion, or construction of transmission facilities, to the extent that those costs are not otherwise authorized for recovery in rates approved by the Federal Energy Regulatory Commission.

~~SEC. 23.~~ SEC. 29. Section 80110 of the Water Code is amended to read:

80110. (a) The department shall retain title to all power sold by it to the retail end-use customers. The department shall be entitled to recover, as a revenue requirement, amounts and at the times necessary to enable it to comply with Section 80134, and shall advise the commission as the department determines to be appropriate.

(b) The revenue requirements may also include any advances made to the department hereunder or hereafter for purposes of this division, or from the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001.

(c) (1) For the purposes of this division and except as otherwise provided in this section, the Public Utility Commission's authority as set forth in Section 451 of the Public Utilities Code shall apply, except any just and reasonable review under Section 451 shall be conducted and determined by the department. Prior to the execution of any modification of any contract for the purchase of power by the department pursuant to this division, on or after the effective date of this section, the department or the commission, as applicable, shall do the following:

(A) The department shall notify the public of its intent to modify a contract and the opportunity to comment on the proposed modification.

(B) At least 21 days after providing public notice, the department shall make a determination as to whether the proposed modifications are just and reasonable. The determination shall include responses to any public comments.

(C) No later than 70 days before the date of execution of the contract modification, the department shall provide a written report to the commission setting forth the justification for the determination that the proposed modification is just and reasonable, including documents, analysis, response to public comments, and other information relating to the determination.

(D) Within 60 days of the date of receipt of the department's written report, the commission shall review the report and make

public its comments. If the commission in its comments recommends against the proposed modification, the department shall not execute the proposed contract modification.

(2) This subdivision does not apply to the modification of a contract modified to settle litigation to which the commission is a party.

(3) This subdivision does not apply to the modification of a contract for the purchase of electricity that is generated from a facility owned by a public agency if the contract requires the public agency to sell electricity to the department at or below the public agency's cost of that power.

(4) This subdivision does not apply to the modification of a contract to address issues relating to billing, scheduling, delivery of electricity, and related contract matters arising out of the implementation by the Independent System Operator of its market redesign and technology upgrade program.

(5) (A) For purposes of this subdivision, the department proposes to "modify" a contract if there is any material change proposed in the terms of the contract.

(B) A change to a contract is not material if it is only administrative in nature or the change in ratepayer value results in ratepayer savings, not to exceed twenty-five million dollars (\$25,000,000) per year. For the purpose of making a determination that a change is only administrative in nature or results in ratepayer savings of twenty-five million dollars (\$25,000,000) or less per year, the executive director of the commission shall concur in writing with each of those determinations by the department.

(d) The commission may enter into an agreement with the department with respect to charges under Section 451 for purposes of this division, and that agreement shall have the force and effect of a financing order adopted in accordance with Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as determined by the commission.

(e) The right of retail end-use customers pursuant to Article 6 (commencing with Section 360) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code to acquire service from other providers shall be suspended until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions.

(f) Notwithstanding subdivision (e), the commission may allow individual retail end-use customers currently taking service from an electric service provider, or eligible to take service from an electric service provider under rules adopted by the commission in existence on January 1, 2008, to acquire service for new accounts from an electric service provider.

(g) For purposes of this section, a "new account" means:

(1) An account belonging to an individual retail end-use customer as described in subdivision (f) that exists on January 1, 2009, that receives bundled utility service from an electrical corporation.

(2) An additional meter or request for service of an individual retail end-use customer as described in subdivision (f), added after January 1, 2009.

(h) The department shall have the same rights with respect to the payment by retail end-use customers for power sold by the department as do providers of power to the customers.

~~SEC. 24.~~ SEC. 30. It is the intent of the Legislature to, through the Budget Act or other measure, appropriate the sum of three million seven hundred thousand dollars

(\$3,700,000) from the Public Interest Research, Development, and Demonstration Fund to the Energy Commission for contracts and for interagency agreements with the Department of Fish and Game or other wildlife agencies for the preparation of one or more natural communities conservation plans in the Mojave Desert for the purposes of facilitating the development of solar energy in that region.

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

With respect to certain other costs, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.