

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** April 7, 2009

**To:** The Commission  
(Meeting of April 16, 2009)

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

**Subject:** **SB 14 (Simitian) – Renewable Energy Resources.  
As Amended March 24, 2009**

**LEGISLATIVE SUBCOMMITTEE RECO: SUPPORT WITH AMENDMENTS**

**SUMMARY OF BILL:**

This bill would increase the renewables portfolio standard (RPS) target to 33% in 2020 and make the following changes to the RPS program, which would apply to utilities' procurement practices only after they have reached 20%: replace the Market Price Referent (MPR) and cost cap with CPUC reasonableness review; replace the 1% annual procurement target (APT) with a three-year compliance APT; modify eligibility for out-of-state renewables so that delivery has to be simultaneous with consumption; and require the CPUC to work with CARB on developing enforcement rules and penalties. This bill would also require the CPUC to permit transmission lines within one year, unless there are mitigating environmental considerations that require a longer process.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:**

On February 20, 2009, the Commission voted 4 to 1 to oppose SB 14 unless it was amended. Since that time, SB 14 has been amended to remove all non-RPS-related provisions, including CPUC governance issues and 130% of baseline rate-related issues. Now that SB 14 is an RPS-only bill, the Commission generally supports its approach to RPS-reform with a few notable exceptions related to the treatment of Publicly Owned Utilities (POU), out-of-state renewables and tradable Renewable Energy Credits (REC). 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.

## 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 3% of retail sales every three years 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. The CPUC also supports the proposed PU Code §399.16(b) to replace the annual 1% incremental target with triennial targets because this recognizes the market and regulatory realities of renewable energy procurement. While 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 bill's amendment 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. We simply ask for clarification that the timing of the triennial cycles shall be established by CPUC rule and shall begin not earlier than January 1, 2011.

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. A proposed amendment to SB 14 (PU Code §911) would also require the CPUC to annually report to the Legislature on multiple aspects of the cost of the RPS program. 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.

The changes to the RPS program regarding procurement plans, bid evaluation, flexible compliance, cost containment, and enforcement would commence for each utility after it reaches its 20% RPS target. While the CPUC agrees that it is appropriate to keep the existing compliance rules and flexibility for the 20% target, we suggest eliminating the current cost containment mechanism (market price referent and cost limitation) no later than January 1, 2011. The current cost limitation has insufficient funds to reach a 20% target, let alone a 33% target, and IOUs will be procuring contracts for their 33% target in the next few years before their 20% target is reached. Thus, the MPR and cost limitation should be replaced with the proposed "just and reasonable" cost containment mechanism.

## 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. The CPUC supports the participation of out-of-state renewable energy in California’s RPS program and opposes the modification to the delivery requirement. Instead, we suggest maintaining the existing delivery requirement for bundled contracts, and eliminating any delivery requirement for RECs associated with out-of-state facilities. Bundled contracts (in which both the REC and energy is bought by one retail seller) should have a California delivery requirement because this requirement promotes long-term electric price stability since the bundled product is bought at a fixed price. However, out-of-state eligible REC contracts should not have a delivery requirement because, by definition, the utility buying the REC is not buying the energy, so it’s unlikely that California would get the energy at a fixed price. Thus, requiring delivery of the energy underlying a REC creates significant transaction costs to buy the “firming and shaping” product, but there is no benefit to requiring the underlying energy to be delivered to California. 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.

Along these lines, the CPUC recommends the following technical amendments:

- Modify 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.

- 2. Eliminate PU Code §399.21(a)(3):

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

## 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 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 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 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.

The CPUC supports the change in PU Code § 399.14(a)(3)(A) that requires consistency between RPS Plans and general procurement planning because it will enable the IOUs to understand which renewable energy projects fit their portfolio on the basis of cost, system reliability and environmental quality. It will also provide the CPUC with the information necessary to determine whether the cost of the IOU's proposed RPS procurement is reasonable, if the utility made good faith efforts to procure least-cost best-fit renewables, and whether the utilities should reasonably be held responsible for getting current projects online or if there were market or regulatory barriers that prevented compliance. Furthermore, these new provisions enable the RPS flexible compliance and cost containment rules to be simplified as well as be more robust.

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 not only is unnecessary, but would reduce the development information we receive because the Plans are only filed once per year. Further, Energy Division staff is currently working with parties to better align project viability with bid selection, contract review and approval, and flexible compliance, and flexibility is needed to properly implement this coordination.

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.

The CPUC suggests one minor technical amendment to PU Code § 399.14(a)(3)(A) make the bill language more consistent with current statute:

This assessment shall be consistent with the ~~electrical corporation's long-term portfolio planning~~ *general procurement plan process* conducted pursuant to Article 9 (commencing with Section 635) of Chapter 3, and shall consider the electrical corporation's optimal ~~portfolio~~ *resource mix* to reach the state's goals for reducing emissions of greenhouse gases.

### 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 the bill's proposal to replace 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.

Further, the bill's other proposed language tying the RPS procurement plans and bid evaluation to general procurement planning (PU Code Sections 399.14(a)(3)(A) and 399.14(a)(2)(A)) will enable the CPUC to develop new more robust cost minimization and cost containment mechanisms. 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.

The CPUC also supports the bill's addition of PU Code § 911 for the CPUC to report to the Legislature on many aspects of the costs of the RPS and other renewable energy programs. However, because this report will require significant work and analysis of utility-provided data, we request that the report be due July 1<sup>st</sup> rather than February 1<sup>st</sup> annually.

### 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. The CPUC supports this approach because it will reduce the complexity of the program.

### Enforcement

The bill would eliminate the CPUC's authority to penalize retail sellers for failing to comply with the RPS targets (existing PU Code § 399.14(e)). The bill (proposed PU Code §399.14(e) ) instead 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 kilowatt-hour 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. The CPUC supports these goals but seeks technical amendments to clarify its jurisdictional responsibilities (see Suggested Technical Amendment below).

### Transmission Permitting

The CPUC has the responsibility for siting and 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 successfully 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.

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 the 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.

### 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) and the siting and approval of new transmission that can be jointly owned or utilized 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.

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 importance to ratepayers and other California interests.

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 it 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.

Suggested Technical Amendment for transmission-related provisions:

In order to clarify the CPUC's jurisdictional responsibilities, Sec. 399.26(b) of the bill should be amended as follows:

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 shall facilitate ~~both of the following:~~  
~~(1) The~~ 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.~~

## 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:**

SB 14 passed the Senate 21-16 on March 31<sup>st</sup>, and is now in the Assembly awaiting assignment to a policy committee.

**SUPPORT/OPPOSITION:** (As of March 25, 2009 in the Senate Floor Analysis)

Support: Clean Power Campaign  
Coalition of Utility Employees  
California State Association of Electrical Workers  
California State Pipe Trades Council  
Western State Council of Sheet Metal Workers  
RightCycle Enterprises  
AFSCME  
American Lung Association  
State Building and Construction Trades Council  
California Biomass Energy Alliance  
Environment California  
Silicon Valley Leadership Group

Opposition: BP  
Alliance for Retail Energy Markets  
Edison  
Direct Energy  
PG&E  
California Wind Energy Association  
Direct Access Consumer Coalition  
California Public Utilities Commission  
Western States Petroleum Association  
RBS Sempra Energy Solutions\  
School Project for Utility Rate Reduction  
California Retailers Association  
Shell Energy North America  
Safeway  
California Manufacturer's & Technology Association

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**Date:** April 7, 2009.

**BILL LANGUAGE:**

BILL NUMBER: SB 14        AMENDED  
BILL TEXT

AMENDED IN SENATE    MARCH 24, 2009  
AMENDED IN SENATE    MARCH 12, 2009  
AMENDED IN SENATE    FEBRUARY 17, 2009  
AMENDED IN SENATE    JANUARY 29, 2009

INTRODUCED BY    Senators Simitian, Kehoe, Padilla, and Steinberg  
                  (Coauthors: Senators Alquist, DeSaulnier, Leno,  
Lowenthal, Romero, Strickland, and Wiggins)

DECEMBER 1, 2008

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25741, 25746, 25747, and 25751 of, and to add Section 25524 to, the Public Resources Code, to amend Sections 399.11, 399.12, 399.15, 399.17, and 454.5 of, to amend and renumber Sections 399.13, 399.14, ~~and 399.16~~ 399.16, and 747 of, to add Sections 399.14, 399.16, 399.22, 399.26, 399.27, 399.30, 399.31, ~~and 1005.1 to~~ 911, 1005.1 to, to add the heading of Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of , and to repeal Section 387 of, the Public Utilities Code, relating to utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as amended, Simitian. Utilities: Renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. 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 fund that is continuously appropriated, with certain exceptions for administrative expenses, 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.

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard 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.

(3) 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 the PUC to implement annual procurement targets for 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 additionally require, once the retail seller reaches the 20% renewables target, that the PUC implement triennial procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 3% every three years so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020, if the commission determines that achieving these targets will result in just and reasonable rates.

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.

(4) 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.

(5) 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, 2010, 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. 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, at a minimum, 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, 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.

(6) 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 the PUC enforce these requirements until the retail seller procures 20% of its retail sales from eligible renewable energy resources. Once the 20% requirement is met, the 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, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the RPS program.

(7) Existing law requires the PUC to prepare and submit to the Governor and the Legislature a written report annually before February 1 of each year on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than a specified number of customers in California.

The bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1 of each year, a report on (a) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (b) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (c) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (d) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (e) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (f) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, and (g) any changes in the prior year in load serviced by an electrical corporation.

—(7)—

(8) 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.

—(8)—

(9) 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.

—(9)—

(10) This bill would require the PUC, Energy Commission, and ISO to consider the recommendations of the Renewable Energy Transmission Initiative in their respective responsibilities relative to the siting of transmission and eligible renewable energy resources that are necessary to achieve the renewables portfolio standard.

—(10)—

(11) Existing law establishes the Department of Fish and Game in the Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and streamlined environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

—(11)—

(12) Existing law grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Existing law prohibits the construction of any thermal powerplant or facilities appurtenant thereto or modification of any existing thermal powerplant and appurtenant facility without first obtaining certification from the Energy Commission. Each person proposing to construct a thermal powerplant or electric transmission line on a site is required to submit an application to the Energy Commission. The Energy Commission is required to prescribe the form and content of applications for facilities and to formally act to approve or disapprove applications, including specifying conditions under which approval and continuing operation of any facility is permitted.

This bill would require the Energy Commission to develop a concurrent application review process with the Department of Fish and Game for eligible renewable energy resources with the goal of reducing the time required to complete certification and compliance with the California Environmental Quality Act for eligible renewable

energy resources that are within a competitive renewable energy zone.

—(12)

(13) 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 and Colorado Desert regions for the purposes of facilitating the development of solar energy in those regions.

—(13)

(14) 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 705 is added to the Fish and Game Code, to read:

705. (a) For purposes of this section, "eligible renewable energy resources" has the same meaning as in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(b) The department shall establish an internal division with the primary purpose of performing comprehensive planning and streamlined environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(c) The internal division shall ensure the timely completion of plans pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3), that embody the balancing of project assurances with ecosystem protections.

SEC. 2. Section 25524 is added to the Public Resources Code, to read:

25524. (a) For purposes of this section, "eligible renewable energy resources" has the same meaning as in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(b) The commission shall develop a concurrent application review process with the Department of Fish and Game for eligible renewable energy resources with the goal of reducing the time required to complete certification and compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) for eligible renewable energy resources that are within a competitive renewable energy zone. Nothing in this section effects the requirements of the California Environmental Quality Act.

SEC. 3. 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. 4. 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 399.25 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or generated at a location outside the state and scheduled for simultaneous consumption by California end-use retail customers.

(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.

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

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

(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.

(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 399.25 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) of subparagraph (B), but does not meet the requirements of clause (ii) of subparagraph (B) because it commenced

initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

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

(ii) The facility has been part of the existing baseline of eligible renewable energy resources of a retail seller established pursuant to paragraph (2) of subdivision (b) of Section 399.15 of the Public Utilities Code or has been part of the existing baseline of eligible renewable energy resources of a local publicly owned electric utility established pursuant to Section 387 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 399.13 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. 5. 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 399.25 of the Public Utilities Code, the commission shall recover all costs from user fees.

SEC. 6. 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 399.25 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. 7. 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 399.25 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. 8. Section 387 of the Public Utilities Code is repealed.

SEC. 9. 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. 10. 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 399.30.

(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 399.25, 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. 11. Section 399.13 of the Public Utilities Code is amended

and renumbered to read:

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 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. 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 Energy Commission, for failure to comply with this article.

(f) (1) By October 30, 2010, 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) A local publicly owned electric utility shall retain discretion

over the percentage 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 and the prices paid by the utility for electricity generated by eligible renewable energy resources.

SEC. 12. Section 399.14 of the Public Utilities Code is amended and renumbered to read:

399.13. (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 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.

(C) (i) 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 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) 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 procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:

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

(B) Provisions 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.

(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) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) 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 either through contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005.

(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) 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.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require

compliance. The commission shall enforce comparable penalties on any other retail seller that fails to meet annual procurement targets established pursuant to Section 399.15.

(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 per se, 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 is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(i) The commission shall enforce the requirements of this section until the electrical corporation procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the electrical corporation is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of Section 399.14 with respect to that electrical corporation.

SEC. 13. 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 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.

(B) Flexible rules for compliance. 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 of every even-numbered year 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 triennial 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) The commission shall not enforce the requirements of this section until the electrical corporation procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the electrical corporation is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of this section with respect to that electrical corporation.

SEC. 14. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations 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 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 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) In the event that 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 399.13 or 399.14.

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

(C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.

(D) No purchases of renewable energy credits may be eligible for consideration as an above-market cost.

(E) 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) 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) The commission shall consult with the Energy Commission in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

(g) The commission shall enforce the requirements of this section until the retail seller procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the retail seller is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of Section 399.16 with respect to that retail seller.

SEC. 15. Section 399.16 is added to the Public Utilities Code, to read:

399.16. (a) In order to fulfill unmet long-term resource needs, 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 triennial 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 3 percent of retail sales every three years so that 33 percent of its retail sales are procured from eligible renewable energy resources 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 three years. A retail seller may voluntarily increase its procurement of eligible renewable energy resources beyond the renewables portfolio standard procurement requirements.

(2) For purposes of setting triennial 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 triennial 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.

(d) The commission shall not enforce the requirements of this section until the retail seller procures 20 percent of its retail sales from eligible renewable energy resources. Upon determining that the retail seller is procuring 20 percent of its retail sales from eligible renewable energy resources, the commission shall enforce the requirements of this section with respect to that retail seller.

SEC. 16. Section 399.16 of the Public Utilities Code is amended and renumbered to read:

399.21. (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 triennial procurement targets, the commission and the Energy Commission shall conclude that the tracking system established pursuant to subdivision (c) of Section 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 399.25 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. 17. 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 399.25.

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

(c) The commission shall determine the triennial 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, or 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. 18. 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.

(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. 19. 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 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. 20. Section 399.27 is added to the Public Utilities Code, to read:

399.27. (a) The Legislature finds and declares both of the following:

(1) The Renewable Energy Transmission Initiative (RETI) is a joint effort among the commission, Energy Commission, Independent System Operator, electrical corporations, local publicly owned electric utilities and various stakeholder, tribal, and public interest organizations to help identify the transmission projects needed to accommodate and reach the renewables portfolio standard, facilitate transmission corridor designation, and facilitate transmission and generation siting permitting.

(2) RETI has and will identify and assess competitive renewable energy zones that can provide significant supplies of electricity to California consumers by 2020 in the most cost-effective and environmentally benign manner.

(b) The commission, Energy Commission, and Independent System Operator shall consider the recommendations of the Renewable Energy Transmission Initiative in their respective responsibilities relative to the siting of transmission and eligible renewable energy resources that are necessary to achieve the renewables portfolio standard.

SEC. 21. 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, at a minimum, complies with the renewables portfolio standard adopted by the Energy Commission pursuant to subdivision (f) of Section 399.25. *A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.*

(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. 22. 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. 23. 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 shall, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3).

(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~~ Division 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. 24. Section 747 of the Public Utilities Code is amended and renumbered to read:*

~~747.~~ 910. (a) It is the intent of the Legislature that the commission reduce rates for electricity and natural gas to the lowest amount possible.

(b) The commission shall prepare a written report on the costs of programs and activities conducted by each electrical corporation and gas corporation that is subject to this section, including activities conducted to comply with their duty to serve. The report shall be completed on an annual basis before February 1 of each year, and shall identify, clearly and concisely, all of the following:

(1) Each program mandated by statute and its annual cost to ratepayers.

(2) Each program mandated by the commission and its annual cost to ratepayers.

(3) Energy purchase contract costs and bond-related costs incurred pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(4) All other aggregated categories of costs currently recovered in retail rates as determined by the commission.

(c) As used in this section, the reporting requirements apply to electrical corporations with at least 1,000,000 retail customers in California and gas corporations with at least 500,000 retail customers in California.

(d) The report required by subdivision (b) shall be submitted to the Governor and the Legislature no later than February 1 of each year.

(e) The commission shall post the report required by subdivision (b) in a conspicuous area of its Internet Web site.

*SEC. 25. The heading of Article 11 (commencing with Section 910) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code , to read:*

*Article 11. Reports*

*SEC. 26. Section 911 is added to the Public Utilities Code , to read:*

*911. (a) The commission shall, on an annual basis by February 1 of each year, prepare and submit to the policy and fiscal committees of the Legislature a written report summarizing the following information:*

*(1) All electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, as defined in Section 399.12, including direct procurement costs for eligible renewable energy resources and renewable energy credits, administrative expenses for procurement, expenses incurred to ensure a reliable supply of electricity, and expenses for upgrades to the electrical transmission and distribution grid necessary to delivery electricity from eligible renewable energy resources to load.*

*(2) All cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard.*

*(3) All costs incurred by electrical corporations for incentives for distributed and renewable generation, including the self-generation incentive program, the California Solar Initiative, and net energy metering.*

*(4) All cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed and renewable generation.*

*(5) All renewable, fossil fuel, and nuclear procurement costs, research, study, or pilot program costs, or other program costs for which an electrical corporation is seeking recovery in rates, that is pending determination or approval by the commission.*

*(6) The decision number for each decision of the commission of recovery in rates of costs incurred by an electrical corporation since the preceding report.*

*(7) Any change in the electrical load serviced by an electrical corporation since the preceding report.*

(b) The commission may combine the information required by this section with the report prepared pursuant to Section 910.

~~SEC. 24.~~ SEC. 27. 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. 25.~~ SEC. 28. 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 and Colorado Desert regions for the purposes of facilitating the development of solar energy in those regions.

~~SEC. 26.~~ SEC. 29. 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.