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AMENDED IN SENATE JULY 29, 2004
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AMENDED IN ASSEMBLY MAY 24, 2004
AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2006

Introduced by Assembly Member Nunez

February 13, 2004

An act to ~~amend Sections 365 and 366 of~~, to add Chapter 2.4 (commencing with Section 400) to Part 1 of Division 1 of, *to add Section 743.2 to*, and to repeal Section 330 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

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

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix just and reasonable rates and charges. Under existing law, a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its

patrons and the public. The existing Public Utilities Act requires the commission, pursuant to electrical restructuring, to authorize direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers to acquire service from certain electricity suppliers after a period of time to be determined by the commission, until the Department of Water Resources no longer supplies electricity under that law.

~~This bill would authorize the commission on or before December 31, 2005, to adopt rules and regulations to implement a core and noncore model under which the utility's noncore customers may elect to receive electric service from the electrical corporation, from an electric service provider, or competitive service from a provider of last resort. Upon full implementation of these rules and regulations, existing law would become inoperative that (1) requires the commission to authorize direct transactions between electricity suppliers and retail and end-use customers and (2) requires specified commission participation in certain Federal Energy Regulatory Commission matters. An electrical corporation would have no obligation to procure electricity or meet resource adequacy requirements for noncore customers that elect to enter into a direct transaction for the purchase of electricity.~~

~~The bill would require costs incurred by an electrical corporation to implement transactions on behalf of direct-access customers to be recovered from those customers. The bill would require electrical corporations, commencing January 1, 2006, to file at least every 3 years, and for the commission to approve, a long-term integrated resource plan, as specified. The bill would provide for the recovery of initial capital investment made by an electrical corporation *and found reasonable by the commission in generation resources specified, if the investment is found to be reasonable and is approved by the commission in certificate of public convenience and necessity proceedings, and the investment complies with the conditions specified by the commission in the certificate of public convenience and necessity proceedings at the time the investment is approved.* The bill would also provide for the recovery of an electrical corporation's full cost of contracting for generation resources.~~

The bill would require the commission, by July 1, 2005, to prepare and submit to the Governor and the Legislature, a comprehensive plan to streamline the transmission siting process, and to submit a prescribed report concerning siting and authorization of upgrades, improvements,



and additions to each electrical corporation's transmission system infrastructure. The bill would require the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements to ensure adequate physical generating capacity is available, dedicated to serve all load requirements to meet peak demand plus requisite planning and operating reserves, and would require the commission to implement and enforce these resource adequacy requirements in a nondiscriminatory manner on all load serving entities ~~and their customers~~, excluding a local publicly owned electric utility, the State Water Project, and customer generation, as defined. The bill would require that the cost of meeting resource adequacy requirements, including the costs associated with system reliability and local area reliability *found reasonable by the commission*, be equitably borne and recoverable from all customers *of the electrical corporation* on a pro rata, fully compensatory basis.

The bill would ~~authorize the commission to order electrical corporations to procure, schedule, and dispatch capacity to meet resource requirements on behalf of all customer load, subject to prescribed conditions, including standards for Independent System Operator instructions, market power mitigation measures to ensure the recovery of costs of meeting resource adequacy requirements, and standards for the allocation and recovery of those costs~~ *require local publicly owned electric utilities to comply with resources adequacy standards established by the Western Energy Coordinating Council (WECC)*.

Existing law states the intent of the Legislature and makes various findings and declarations with respect to electrical restructuring.

This bill would repeal that statement of intent and the legislative findings and declarations.

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

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

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

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

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) An adequate and reliable supply of electricity is essential to
4 the health, safety, and welfare of all California consumers.

5 (b) Safe, reliable, and affordable electric service is of utmost
6 importance to the consumers of this state and its economy.

7 (c) Electrical corporations have an obligation to provide their
8 customers with reliable electric service at just and reasonable rates.

9 (d) In order to provide safe, reliable, and affordable electric
10 service to consumers, electrical corporations must provide needed
11 resources, including cost-effective energy efficiency and other
12 demand reduction measures, utility-owned and procured
13 generation, new and repowered generation, cogeneration,
14 renewable generation, transmission, distribution, and an
15 adequately sized, well-trained workforce, in a manner that
16 produces the best value for ratepayers at just and reasonable rates.

17 (e) In order to ensure that investments in resources are made in
18 a manner that produces the best value for ratepayers, electrical
19 corporations should prepare a long-term integrated resource plan
20 for commission review and approval, that achieves a diversified
21 portfolio of efficient, cost-effective, environmentally responsible
22 supply and demand resources.

23 (f) In order to ensure that a long-term integrated resource plan
24 will result in investments in physical generating capacity
25 dedicated to serving all load requirements, *that* is available to meet
26 peak demand and planning and operating reserves, at locations and
27 at times as may be necessary to ensure local area reliability and
28 system reliability, the commission shall adopt resource adequacy
29 requirements *that apply equally to all load serving entities*.

30 (g) In order to ensure that the long-term integrated resource
31 plan achieves a diversified portfolio of efficient, cost-effective,
32 environmentally responsible, supply and demand resources,
33 resource adequacy requirements shall be met first through
34 cost-effective energy efficiency and other demand reduction
35 measures.



1 ~~(h) In order to ensure that a long-term integrated resource plan~~
2 ~~will result in investments in resources sufficient to provide reliable~~
3 ~~electric service to customers of an electrical corporation without~~
4 ~~stranding costs or shifting costs, a stable and predictable customer~~
5 ~~base is necessary and essential.~~

6 ~~(i)~~

7 (h) In order to attract sufficient capital to make investments in
8 needed resources, there must be assurance that reasonable costs
9 and investments, including a return of and on direct investments,
10 and payments made to third parties under contract with an
11 electrical corporation for non-utility-owned generation, are
12 ~~recovered~~ recoverable in rates.

13 ~~(j)~~

14 (i) California consumers will not receive reliable and
15 affordable electric service, nor will consumers avoid repetition of
16 past problems with excessive wholesale electricity prices, rolling
17 blackouts, and long-term supply contracts that threaten consumers
18 with billions of dollars in above-market electricity costs, unless a
19 durable framework is enacted to provide regulatory certainty and
20 market stability in support of investment in needed efficient,
21 cost-effective, environmentally responsible resources at just and
22 reasonable rates.

23 ~~(k)~~

24 (j) Protecting the interests of consumers by ensuring that
25 investments made to provide safe, reliable electric service are
26 prudent and cost effective, should be the highest priority of
27 California regulatory policy and action.

28 ~~(l)~~

29 (k) The Public Utilities Commission has an obligation to
30 provide an open regulatory forum where all persons affected by
31 public utility service and rates or otherwise affected by decisions
32 made by the commission, can observe and participate in the
33 decisionmaking process.

34 SEC. 2. Section 330 of the Public Utilities Code is repealed.

35 ~~SEC. 3. Section 365 of the Public Utilities Code is amended~~
36 ~~to read:~~

37 ~~365. The commission shall facilitate the efforts of the state's~~
38 ~~electrical corporations to develop and obtain authorization from~~
39 ~~the Federal Energy Regulatory Commission for the creation and~~
40 ~~operation of an Independent System Operator for the~~



1 ~~determination of which transmission and distribution facilities are~~
2 ~~subject to the exclusive jurisdiction of the commission, and for~~
3 ~~approval, to the extent necessary, of the cost recovery mechanism~~
4 ~~established as provided in Sections 367 to 376, inclusive. The~~
5 ~~commission shall also participate fully in all proceedings before~~
6 ~~the Federal Energy Regulatory Commission in connection with~~
7 ~~the Independent System Operator and shall encourage the Federal~~
8 ~~Energy Regulatory Commission to adopt protocols and~~
9 ~~procedures that strengthen the reliability of the interconnected~~
10 ~~transmission grid, encourage all publicly owned utilities in~~
11 ~~California to become full participants, and maximize~~
12 ~~enforceability of such protocols and procedures by all market~~
13 ~~participants.~~

14 ~~This section shall become inoperative upon full implementation~~
15 ~~of Section 400.21. The commission shall report to the Legislature~~
16 ~~when Section 400.21 is fully implemented.~~

17 ~~SEC. 4. Section 366 of the Public Utilities Code is amended~~
18 ~~to read:~~

19 ~~366. (a) The commission shall take actions as needed to~~
20 ~~facilitate direct transactions between electricity suppliers and~~
21 ~~end-use customers. Customers shall be entitled to aggregate their~~
22 ~~electrical loads on a voluntary basis, provided that each customer~~
23 ~~does so by a positive written declaration. If no positive declaration~~
24 ~~is made by a customer, that customer shall continue to be served~~
25 ~~by the existing electrical corporation or its successor in interest,~~
26 ~~except aggregation by community choice aggregators,~~
27 ~~accomplished pursuant to Section 366.2.~~

28 ~~(b) Aggregation of customer electrical load shall be authorized~~
29 ~~by the commission for all customer classes, including, but not~~
30 ~~limited, to small commercial or residential customers.~~
31 ~~Aggregation may be accomplished by private market aggregators,~~
32 ~~special districts, or on any other basis made available by market~~
33 ~~opportunities and agreeable by positive written declaration by~~
34 ~~individual consumers, except aggregation by community choice~~
35 ~~aggregators, which shall be accomplished pursuant to Section~~
36 ~~366.2.~~

37 ~~(c) This section shall become inoperative upon full~~
38 ~~implementation of Section 400.21. The commission shall report to~~
39 ~~the Legislature when Section 400.21 is fully implemented.~~

40 ~~SEC. 5.~~



1 SEC. 3. Chapter 2.4 (commencing with Section 400) is added
2 to Part 1 of Division 1 of the Public Utilities Code, to read:

3
4 CHAPTER 2.4. RELIABLE ELECTRIC SERVICE ACT OF 2004
5

6 400. This chapter shall be known, and may be cited, as the
7 Reliable Electric Service Act of 2004.

8 400.1. (a) An electrical corporation has an obligation to, and
9 shall, plan for and provide its customers with reliable electric
10 service at just and reasonable rates, pursuant to Section 451,
11 including those customers that purchase standby service from the
12 electrical corporation.

13 (b) For purposes of this chapter, “electric service” includes
14 providing adequate and efficient resources, including
15 cost-effective energy efficiency and other demand reduction
16 resources, utility-owned and procured generation resources, such
17 as new and repowered generation resources, cogeneration, and
18 renewable generation resources, transmission and distribution
19 resources, metering, billing, and employing an adequately sized,
20 well-trained utility workforce.

21 (c) Notwithstanding subdivisions (a) and (b), an electrical
22 corporation has no obligation to plan for or procure, or to bill or
23 meter, electricity or meet resource adequacy requirements for any
24 customer that elects to enter into a direct transaction. Costs
25 incurred by the electrical corporation to implement direct
26 transactions on behalf of direct access customers, shall be
27 recovered from those direct access customers.

28 400.5. (a) To ensure that adequate investments are made in
29 resources necessary to provide customers with reliable electric
30 service, the commission shall authorize an electrical corporation
31 to provide efficient, cost-effective resources, including
32 cost-effective energy efficiency and demand reduction resources,
33 utility-owned and procured generation resources, which may
34 include, among other resources, new and repowered generation
35 resources, cogeneration, and renewable generation resources,
36 consistent with the electrical corporation’s procurement plan
37 adopted pursuant to Section 454.5.

38 (b) The commission shall, after public hearing, approve and
39 thereafter maintain just and reasonable rates sufficient to ensure
40 that the electrical corporation fully recovers both of the following:



1 (1) The electrical corporation's initial capital investment ~~found~~
2 ~~reasonable by the commission pursuant to Section 1005.5. in~~
3 *generation resources specified, found reasonable, and approved*
4 *by the commission in the certificate of public convenience and*
5 *necessity proceedings, if the investment complies with the*
6 *conditions specified by the commission in the certificate of public*
7 *convenience and necessity proceedings at the time the investment*
8 *is approved.*

9 (2) The electrical corporation's full cost of contracting for
10 generation resources with another entity in accordance with
11 Sections 454.5 and Article 16 (commencing with Section 399.11)
12 of Chapter 2.3, including the reasonable costs for any collateral
13 requirements and debt equivalence, in a manner determined by the
14 commission to provide the best value to ratepayers.

15 (c) Nothing in this chapter alters the requirements of Section
16 451, 454.5, 455.5, 463, or 1005.5.

17 (d) It is the intent of the Legislature in enacting this section to
18 reaffirm California's traditional regulatory compact, under which
19 an electrical corporation has the obligation to provide reliable
20 electric service at just and reasonable rates, and the commission
21 ensures that the electrical corporation is afforded the means to
22 carry out this obligation, specifically including a reasonable
23 opportunity to fully recover from all customers of the electrical
24 corporation, in a manner determined by the commission pursuant
25 to this code, a return of, and a reasonable return on, reasonable
26 investments in utility-owned generation, transmission, and
27 distribution resources that are necessary to meet the utility's
28 obligation, the utility's reasonable costs to operate and maintain
29 those resources, and the utility's reasonable costs for nonutility
30 generation resources procured in accordance with Section 454.5
31 and Article 16 (commencing with Section 399.11).

32 400.10. (a) To ensure that adequate investments necessary to
33 meet the electrical corporation's obligation to provide reliable
34 electric service are made, every electrical corporation shall,
35 commencing on January 1, 2006, and at least every three years
36 thereafter, prepare a long-term integrated resource plan.

37 (b) The long-term integrated resource plan shall accomplish all
38 of the following:

39 (1) Ensure that adequate resources are identified to serve the
40 utility's customers reliably.



1 (2) Provide for investments in, or procurement of, resources
2 proposed pursuant to Section 454.5 and Article 16 (commencing
3 with Section 399.11).

4 (3) Be consistent with Section 701.1 and Chapter 4
5 (commencing with Section 25300) of Division 15 of the Public
6 Resources Code.

7 (4) Achieve a diversified portfolio of efficient, cost-effective,
8 and environmentally responsible supply and demand resources to
9 serve the utility's customers.

10 (5) Provide for ~~investments in~~ *funding of* all practicable and
11 cost-effective energy efficiency and load management resources.

12 (6) Provide for investments in, or procurement of, necessary
13 generation resources, and may include extensions, renewals, or
14 renegotiations of contracts for existing generation resources, new
15 or repowered generation, and cogeneration projects.

16 (7) Provide that an electrical corporation meets resource
17 adequacy requirements established by the commission pursuant to
18 Section 400.22, for the electric load served by the electrical
19 corporation. For purposes of this chapter, "electric load served by
20 the electrical corporation" does not include the electrical load of
21 customers who ~~elect to enter~~ *have entered* into a direct transaction.

22 (8) Include demand and supply forecasts for 5- and 10-year
23 periods. The demand forecasts shall reflect all energy efficiency
24 and load management programs approved by the commission.

25 (c) The long-term integrated resource plan may provide for
26 investments in distributed generation that would improve
27 electrical system reliability, thereby deferring or eliminating
28 investments in distribution facilities that would otherwise be
29 needed to improve system reliability, by either direct investment
30 by the electrical corporation or under contract with a retail
31 customer or a third party, if the commission finds that the
32 investment in distributed generation would accomplish each of the
33 following:

34 (1) Result in overall cost savings for ratepayers due to deferral
35 or elimination of electric distribution projects.

36 (2) Provide the required reliability and operational
37 characteristics to support adequate service reliability to customers
38 in the affected area.

39 (3) If the distributed generation is provided under contract with
40 a retail customer or a third party to reduce distribution system



1 loads, the retail customer or third party shall maintain physical
2 assurance that the contracted load reduction will be available
3 during all required time periods.

4 400.11. The commission shall, after public hearing, review
5 and approve a long-term integrated resource plan for every
6 electrical corporation, including those revisions to the plan that the
7 commission determines are necessary to meet the requirements of
8 Section 400.10 and achieve best value for utility customers.

9 400.15. In accordance with an electrical corporation's
10 long-term integrated resource plan approved pursuant to Section
11 400.11, and consistent with Sections 454.5 and 701.1 and Article
12 16 (commencing with Section 399.11), to meet resource adequacy
13 requirements, each electrical corporation shall manage a
14 diversified, efficient, cost-effective, environmentally responsible
15 portfolio of non-utility-owned generation under contract with the
16 utility, and utility-owned generation, combining the potential
17 benefits of a competitive wholesale market, including operating
18 efficiencies and lower prices, with the stability of ~~cost-of-service~~
19 *cost-based* generation resources, to achieve best value for
20 ratepayers at just and reasonable rates.

21 400.18. (a) The commission shall, on or before July 1, 2005,
22 prepare and submit to the Governor and the Legislature, a
23 comprehensive plan to streamline the transmission siting process.
24 The plan shall, at a minimum, include recommendations to
25 eliminate regulatory overlap and duplication, and
26 recommendations to reduce the time needed to process a request
27 for transmission improvements. The commission shall consult
28 with the State Energy Resources Conservation and Development
29 Commission, the Independent System Operator, electrical
30 corporations, and interested parties in the development and
31 preparation of the plan.

32 (b) On or before December 31, 2005, the commission shall
33 prepare and transmit a report to the Legislature summarizing the
34 status of proceedings for each site for authorization of construction
35 of all upgrades, improvements, or additions to the transmission
36 system infrastructure determined by the electrical corporation to
37 be necessary to ensure reliability and for which the electrical
38 corporation has filed an application for a certificate of public
39 convenience and necessity. The report shall include action that the
40 commission has taken or proposes to take to facilitate the siting and



1 authorization of those facilities and the schedule for completion in
2 order to address the reliability needs identified by the electrical
3 corporation. To the extent that the commission determines that the
4 transmission upgrade, improvement, or addition is not needed, the
5 commission shall identify the alternative it intends to pursue in
6 order to ensure reliability. ~~The commission shall update its report~~
7 ~~on January 1, 2006, and annually on January 1 thereafter.~~
8 *commission shall annually update its report as part of its annual*
9 *workplan.*

10 ~~400.21. (a) On or before December 31, 2005, the~~
11 ~~commission may adopt rules and regulations to implement a core~~
12 ~~and noncore model for retail electric service, whereby core~~
13 ~~customers shall receive electric service from an electrical~~
14 ~~corporation on a regulated basis and noncore customers may~~
15 ~~choose to assume the full price risk of purchasing electricity from~~
16 ~~the retail electric market or to receive competitive service from a~~
17 ~~provider of last resort, consistent with the objectives set forth in~~
18 ~~this subdivision. The commission may implement a core and~~
19 ~~noncore model on or after January 1, 2006, provided the~~
20 ~~commission has implemented rules and regulations that achieve all~~
21 ~~of the following:~~

22 ~~(1) Permit specified electrical corporation customers with a~~
23 ~~single anchor meter with a maximum peak demand of at least _____~~
24 ~~kilowatts to choose to become noncore customers and to purchase~~
25 ~~electricity directly from nonutility electric service providers or to~~
26 ~~receive competitive service from a provider of last resort pursuant~~
27 ~~to paragraph (11). Aggregation of additional meters on contiguous~~
28 ~~property under the same ownership as the anchor meter may be~~
29 ~~permitted.~~

30 ~~(2) Provide that noncore customers forgo both the benefits and~~
31 ~~future incurred costs of receiving bundled electricity service from~~
32 ~~the electrical corporations.~~

33 ~~(3) Provide that the remaining core customers are served by the~~
34 ~~electrical corporation's electricity resource portfolio and assume~~
35 ~~both the benefits and the future incurred costs of receiving bundled~~
36 ~~electricity service from the electrical corporation.~~

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

39 ~~(5) Ensure electrical corporations and core customers fully~~
40 ~~compensatory and timely recovery of costs, including investments~~



1 in long-term resource additions to the system, originally incurred
2 to serve departing customers. However, electrical corporations
3 shall not incur new obligations for long-term resource additions to
4 serve noncore eligible customers during the five-year phase-in
5 period provided in paragraph (7).

6 (6) Provide for the full recovery of existing direct access
7 customers' energy cost obligations from those existing direct
8 access customers, on a schedule comparable to the recovery of
9 comparable costs from core customers, either through refinancing
10 the cost obligation, or by otherwise relieving core customers of the
11 cost obligation.

12 (7) Provide for an election process whereby a customer with a
13 single anchor meter with a maximum peak demand of at least _____
14 kilowatts shall make a permanent election to become a noncore
15 customer and purchase electricity directly from a nonutility
16 electric service provider or receive competitive service from a
17 provider of last resort pursuant to paragraph (11). The election
18 process shall be phased in over no fewer than five years, and shall
19 include maximum annual megawatt limits on the amount of load
20 available to noncore customers for direct transactions (hereafter,
21 yearly transition cap). The commission may establish these annual
22 megawatt limits, or yearly transition caps, in equal annual
23 amounts. The election process shall also provide an opportunity
24 for a noncore eligible customer to make a binding declaration to
25 become a noncore customer in a future year, and thereby avoid cost
26 responsibility for any new obligation for long-term resource
27 additions made between the date of the noncore eligible
28 customer's binding declaration and the actual date the noncore
29 eligible customer becomes a noncore customer.

30 (8) Require that, at the end of the transition period, each
31 customer with a single anchor meter with a maximum peak
32 demand of at least _____ kilowatts, who has not yet elected to
33 purchase electricity directly from nonutility electric service
34 provider, must make an affirmative permanent election to either
35 remain with the electrical corporation or to purchase electricity
36 from a nonutility electric service provider or to receive
37 competitive service from a provider of last resort pursuant to
38 paragraph (11).

39 (9) Require nonutility electric service providers to comply with
40 the resource adequacy requirements established by the



1 ~~commission pursuant to this chapter, to ensure that there is no~~
2 ~~adverse effect on the reliability, cost, or availability of electricity~~
3 ~~for core customers.~~

4 ~~(10) Require electric service providers to meet resource~~
5 ~~adequacy requirements by first acquiring all available~~
6 ~~cost-effective energy efficiency and demand reduction resources,~~
7 ~~and comply with the requirements established pursuant to Article~~
8 ~~16 (commencing with Section 399.11). The commission shall~~
9 ~~establish an effective mechanism to independently measure and~~
10 ~~verify acquisition of cost-effective energy efficiency and demand~~
11 ~~reduction resources by electric service providers, consistent with~~
12 ~~commission protocols for electrical corporations as existing on~~
13 ~~January 1, 2005.~~

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

16 ~~(12) Restrict the ability of a noncore customer to return to~~
17 ~~electric service from the electrical corporation. In the event that the~~
18 ~~commission finds that the retail market has failed and the provider~~
19 ~~of last resort is no longer capable of providing reliable electric~~
20 ~~service to noncore customers, the electrical corporation shall~~
21 ~~provide electric service to a returning noncore customer at a fully~~
22 ~~compensatory rate, subject to standard contractual return~~
23 ~~conditions that prevent any cost shifting.~~

24 ~~(13) Demonstrate that a core and noncore model will support,~~
25 ~~and not be detrimental to, system reliability and future investments~~
26 ~~in electricity infrastructure and the objective of acquiring all~~
27 ~~cost-effective energy efficiency and demand reduction resources,~~
28 ~~through the establishment, implementation, and enforcement of~~
29 ~~resource adequacy requirements pursuant to Section 400.22 or~~
30 ~~400.23.~~

31 ~~(14) Provide that customers that are purchasing electricity~~
32 ~~pursuant to a direct transaction as of January 1, 2005, as provided~~
33 ~~by the commission pursuant to subdivision (b) of Section 365,~~
34 ~~including customers that qualify as core customers, may make a~~
35 ~~one-time permanent election to continue to purchase electricity~~
36 ~~pursuant to a direct transaction, to receive competitive service~~
37 ~~from a provider of last resort pursuant to paragraph (11), or to~~
38 ~~return to electric service provided by the electrical corporation.~~
39 ~~Those customers who choose to continue to purchase electricity~~
40 ~~under a direct transaction or to receive competitive service from~~



1 a provider of last resort pursuant to paragraph (11) shall be subject
2 to the rules established for a noncore customer pursuant to this
3 section. The commission may authorize customers that are
4 purchasing electricity pursuant to a direct transaction as of January
5 1, 2005, and who choose to continue to purchase electricity under
6 a direct transaction pursuant to this chapter, to aggregate additional
7 meters located on contiguous property under the customer's same
8 ownership, even if the customer's anchor meter has a maximum
9 peak demand of less than _____ kilowatts.

10 (15) Provide that the adoption of rules and regulations required
11 by this section, and the adoption of resource adequacy
12 requirements pursuant to this chapter, are a prerequisite for the
13 implementation of a core and noncore market authorized pursuant
14 to this chapter.

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

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

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

24 (c) The report shall be reviewed by an independent auditor each
25 year, who shall report to the commission, the Legislature, and the
26 Governor on any impacts on the price, availability, or reliability of
27 electricity for core customers resulting from the implementation
28 of a noncore retail market. The commission shall consider the
29 report of the independent auditor, and shall take all actions
30 necessary to ensure that core customers continue to receive
31 reliable electric service at just and reasonable rates, including, but
32 not limited to, deferring further phase in of the noncore retail
33 market until new generating capacity is built to serve the noncore
34 retail market.

35 (d) In designating the earliest possible date for implementation
36 of a community choice aggregation program, the commission
37 shall ensure that there will be no cost shifting or stranding of
38 investments made pursuant to a long-term integrated resource plan
39 of the electrical corporation that has been approved by the
40 commission pursuant to Section 400.11. In considering approval



1 ~~of the electrical corporation's long-term integrated resource plan,~~
2 ~~the commission shall also ensure that the plan includes a~~
3 ~~reasonable estimate of the customer load departure through~~
4 ~~Community Choice Aggregation, as such estimate is provided for~~
5 ~~by a Community Choice Aggregator pursuant to Section 366.2.~~

6 400.22. (a) All electrical load serving entities, including
7 nonutility electric service providers and community choice
8 aggregators, shall be subject to the same requirements for resource
9 adequacy, resource diversity, and the renewable portfolio
10 standard, that are applicable to electrical corporations pursuant to
11 ~~this section, as required by other law, or as required by order or this~~
12 ~~section, or otherwise as required by law, or by order or~~ decision of
13 the commission.

14 (b) The commission, in consultation with the Independent
15 System Operator, shall establish resource adequacy requirements
16 to ensure that adequate physical generating capacity dedicated to
17 serving all load requirements is available to meet peak demand and
18 planning and operating reserves, at locations and at times as may
19 be necessary to ensure local area reliability and system reliability,
20 at just and reasonable rates.

21 (c) The commission shall implement and enforce these
22 resource adequacy requirements in a nondiscriminatory manner
23 ~~on all load serving entities and their customers, either by requiring~~
24 ~~all load serving entities to meet the requirements individually, or~~
25 ~~by directing the electrical corporation to secure the resources~~
26 ~~necessary to meet resource adequacy requirements and allocating~~
27 ~~the costs thereof to all customers pursuant to Section 400.23.~~

28 ~~(d) To the extent that the resources necessary to meet resource~~
29 ~~adequacy requirements are provided by an electrical corporation~~
30 ~~pursuant to Section 400.23, the costs of~~ *on all load serving entities.*
31 *The electrical corporation's costs of* meeting those resource
32 adequacy requirements, including the costs associated with system
33 reliability *found reasonable by the commission* and local area
34 reliability, shall be equitably borne by and recoverable from all
35 customers *of the electrical corporation* on a pro rata, fully
36 compensatory basis, that cannot be bypassed, pursuant to rates that
37 are just and reasonable, as determined by the commission.

38 (e) Resource adequacy requirements established by the
39 commission shall provide for, and ensure, all of the following:

- 40 (1) System-wide and local area grid reliability.



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

4 (3) Adequate and timely investment in new generating capacity
5 to meet future load requirements, including planning and
6 operating reserves.

7 (4) Market power mitigation.

8 (5) Deliverability.

9 ~~(6) Resource commitments by load serving entities at least~~
10 ~~three years in advance of need, in order to ensure that new~~

11 *(6) In order sufficiently far in advance, to ensure that new*
12 *resources can be constructed if necessary to meet the need,*
13 *resource commitments by load serving entities shall be made*
14 *sufficiently far in advance, and no less than three years in advance*
15 *of need.*

16 (f) Load serving entities may procure physical generating
17 capacity through a market-based mechanism, provided that the
18 commission, after a hearing, determines that there is convincing
19 factual evidence that the mechanism will achieve all of the
20 following:

21 (1) Adequate physical generating capacity dedicated to serve
22 all load requirements when and where the electricity is needed,
23 including planning and operating reserves to ensure local area
24 reliability and system reliability.

25 (2) Adequate and timely investment in new generating capacity
26 to meet future load requirements, including planning and
27 operating reserves.

28 (3) Electricity that is purchased through the market is
29 deliverable to the load for which it is purchased.

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

31 (5) A prospective market monitoring process and market
32 power mitigation measures are in place that are sufficient to ensure
33 a well-functioning wholesale electricity market.

34 (g) The commission shall adopt rules and regulations necessary
35 to enforce resource adequacy requirements established pursuant to
36 this section *uniformly among all load serving entities, including*
37 *establishing a uniform accounting mechanism to identify, count,*
38 *track, and verify all capacity needed to meet these resource*
39 *adequacy requirements for each load serving entity.* Pursuant to its
40 authority to revoke or suspend registration pursuant to Section



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

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

9 ~~(i)~~

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

26 (i) *Local publicly owned electric utilities, as defined in Section*
27 *9604, shall comply with resources adequacy standards established*
28 *by the Western Energy Coordinating Council (WECC).*

29 ~~400.23. Notwithstanding any other provision of this chapter,~~
30 ~~to ensure that adequate physical generating capacity dedicated to~~
31 ~~serve all load requirements is available to meet peak demand and~~
32 ~~planning and operating reserves, at locations and at times as may~~
33 ~~be necessary to ensure local area reliability and system reliability,~~
34 ~~the commission may order electrical corporations to procure,~~
35 ~~schedule, and dispatch capacity to meet resource adequacy~~
36 ~~requirements on behalf of all customer load, including load served~~
37 ~~by nonutility electric service providers, provided all of the~~
38 ~~following conditions are met:~~



1 ~~(a) The Independent System Operator shall provide detailed~~
2 ~~instructions to the electrical corporation as to where and when and~~
3 ~~in what amount resources are needed to meet local area reliability.~~

4 ~~(b) The instructions of the Independent System Operator shall~~
5 ~~be adopted as upfront achievable standards and criteria as part of~~
6 ~~the electrical corporation's procurement plan approved by the~~
7 ~~commission pursuant to Section 454.5.~~

8 ~~(c) The Independent System Operator and the commission~~
9 ~~shall provide market power mitigation measures to ensure that the~~
10 ~~costs incurred to procure resources pursuant to Section 454.5~~
11 ~~necessary to meet resource adequacy requirements, including~~
12 ~~local area reliability, peak demand, and planning and operating~~
13 ~~reserves, are just and reasonable.~~

14 ~~(d) The costs of meeting resource adequacy requirements shall~~
15 ~~be allocated on a cost-based basis to each customer class, based on~~
16 ~~the contribution of each class of customers to the electrical~~
17 ~~corporation's system peak demand.~~

18 ~~(e) The allocation of costs of meeting resource adequacy~~
19 ~~requirements shall be made in a manner to ensure that there are no~~
20 ~~stranded costs, and no cost shifting between customer classes or~~
21 ~~between customers of an electrical corporation and customers of~~
22 ~~another load serving entity.~~

23 ~~(f) The costs of meeting resource adequacy requirements shall~~
24 ~~be recovered from all customers on a fully compensatory basis~~
25 ~~each year, pursuant to rates that are just and reasonable, through~~
26 ~~a transmission and distribution charge that cannot be bypassed.~~

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

32 400.40. Nothing in this chapter shall alter or affect any
33 outcome of a competitive procurement process conducted by an
34 electrical corporation pursuant to any other law, including Section
35 454.5, prior to January 1, 2005.

36 400.50. Nothing in this chapter shall alter or affect the
37 implementation of the California Renewables Portfolio Standard
38 Program pursuant to Article 16 (commencing with Section
39 399.11).



1 400.60. (a) Nothing in this chapter limits the ability of any
2 customer to participate in a Community Choice Aggregation
3 program pursuant to Section 366.2.

4 (b) *In designating the earliest possible date for implementation*
5 *of a community choice aggregation program, the commission shall*
6 *ensure that there will be no cost-shifting or stranding of*
7 *investments made pursuant to a long-term integrated resource*
8 *plan of the electrical corporation that has been approved by the*
9 *commission pursuant to Section 400.11. In considering approval*
10 *of the electrical corporation's long-term integrated resource plan,*
11 *the commission shall also ensure that the plan includes a*
12 *reasonable estimate of the customer load departure through*
13 *community choice aggregation, as such estimate is provided for by*
14 *a community choice aggregator pursuant to Section 366.2.*

15 400.70. *On or before September 1, 2005, the commission shall*
16 *prepare and submit to the Legislature a report describing the*
17 *extent to which existing rate allocations for each customer class*
18 *reflect cost of service.*

19 ~~SEC. 6.—~~

20 SEC. 4. *Section 743.2 is added to the Public Utilities Code, to*
21 *read:*

22 743.2. (a) *It is the intent of the legislature in enacting this*
23 *section that the commission recognize the potential competitive*
24 *disadvantage experienced by large manufacturing customers of*
25 *electricity.*

26 (b) *The commission may order an electrical corporation to file*
27 *tariffs that offer discounted rates for large manufacturing*
28 *customers of electricity if the commission determines those*
29 *customers face a competitive disadvantage with regard to*
30 *electricity rates for similarly-situated users in other states.*

31 SEC. 5. *No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*



- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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