

AMENDED IN SENATE AUGUST 25, 2004  
AMENDED IN SENATE AUGUST 23, 2004  
AMENDED IN SENATE AUGUST 17, 2004  
AMENDED IN SENATE AUGUST 9, 2004  
AMENDED IN SENATE JULY 29, 2004  
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AMENDED IN SENATE JUNE 24, 2004  
AMENDED IN ASSEMBLY MAY 24, 2004  
AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2006**

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**Introduced by Assembly Member Nunez**  
(Coauthor: Senator Bowen)

February 13, 2004

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An act to amend Sections 301 and 303 of, to add Sections 250, 303.5, 454.05, and 1001.7 to, to add Chapter 2.4 (commencing with Section 400) to Part 1 of Division 1 of, and to repeal Section 330 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2006, as amended, Nunez. Electrical restructuring: Public Utility Commission procedures.

(1) Section 1 of Article XII of the *California Constitution* prescribes the membership, method of appointment, the term for which vacancies are filled, and the method of removal of, members of the Public Utilities Commission.

This bill would reiterate these provisions in statute.

(2) Existing law requires the Public Utilities Commission to adopt an updated conflict-of-interest code and statement of incompatible activities by February 28, 1998.

This bill would require the Public Utilities Commission to adopt an updated conflict-of-interest code and statement of incompatible activities by February 28, 2005.

(3) Existing law prohibits members of the Public Utilities Commission from holding an official relationship with, or having a financial interest in, any person or corporation subject to commission regulation.

This bill would additionally preclude membership on the commission by any person who, during the 2 years preceding appointment, received a substantial portion of his or her income from any person or corporation subject to commission regulation. The bill would prohibit commission members from being employed by a person or corporation subject to commission regulation, while a member of the commission or within 2 years thereafter. The bill would prohibit commission members from holding other public offices or positions. The bill would require commission members to comply with provisions respecting conflicts of officers and employees appointed within the state civil service. The bill would prohibit a members and employees of the commission from participating personally and substantially in matters in which the person knows that the person, his or her spouse or minor child, partner, any organization he or she serves or has served as an officer, director, trustee, partner, or employee has a direct or indirect financial interest or has had such an interest during the two years prior to his or her appointment as a member of the commission. The bill would prohibit any person who is a partner, employer, or employee of a member or employee of the commission from acting as an attorney, agent, or employee for any person other than the state in connection with any matter in which the commission is a party or has a direct or substantial interest.

(4) 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 require that, prior to adopting any settlement agreement that is contested by any person or entity and involves a ratepayer obligation over \$10,000,000, the Public Utilities Commission hold a hearing to review the settlement and any alternative proposed by any person or entity, to ensure that the proposed settlement achieves specified purposes. The bill would require electrical corporations, commencing January 1, 2006, to prepare and 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 in generation resources specified, if the investment is found to be reasonable and is approved by the commission in the certificate of public convenience and necessity, and the investment complies with the conditions specified by the commission in the certificate of public convenience and necessity 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 with another entity, as specified.

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, on or before December 31, 2005, 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 that adequate physical generating capacity, dedicated to serve all load requirements, is available 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, 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 fully recoverable from all customers taking service from the electrical corporation on a nonbypassable basis at the time the commitment to incur the cost is made or thereafter.

The bill, *with a certain exception*, would require a majority vote of the commission membership at a public meeting in order to approve any change in rates or alteration of any utility classification, contract, practice, project, or rule that affects rates directly or indirectly or to approve the settlement of any judicial or administrative proceeding that would result in any of those consequences. The bill would require that, prior to approving an electrical corporation application for a certificate of public convenience and necessity for the proposed construction of generation resources, the commission include in the proceeding an opportunity for any creditworthy party to submit, ~~would require~~ and the commission ~~to~~ consider, alternative proposals meeting specified criteria. ~~The bill would require the commission to find that the certificate of public convenience and necessity achieves the best value for ratepayers.~~ *The bill would require the commission to reject the certificate of public convenience and necessity for generation resources proposed to be constructed by an applicant electrical corporation if the commission makes a specified determination.*

(5) 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.

(6) 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.

(7) 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 or  
27 deliverable to locations and at times as may be necessary to ensure  
28 local area reliability and system reliability, the commission shall  
29 adopt resource adequacy requirements that apply equally to all  
30 load serving entities.



1 (g) In order to ensure that the long-term integrated resource  
2 plan achieves a diversified portfolio of efficient, cost-effective,  
3 environmentally responsible, supply and demand resources,  
4 resource adequacy requirements shall be met first through  
5 cost-effective energy efficiency and other demand reduction  
6 measures.

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 recoverable in rates.

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

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

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

31 SEC. 1.5. Section 250 is added to the Public Utilities Code, to  
32 read:

33 250. Prior to adopting any settlement agreement, including  
34 any settlement of a judicial or administrative proceeding to which  
35 the commission is a party or all incumbent commissioners are  
36 parties, that is contested by any person or entity and that involves  
37 a ratepayer obligation of greater than ten million dollars  
38 (\$10,000,000) *per ratemaking district*, in addition to any other  
39 requirement applicable to settlements, the commission shall not  
40 approve the settlement before it has held a hearing to review the



1 settlement and any alternative proposed by any *affected* person or  
2 entity, in order to ensure that the proposed settlement agreement  
3 resolves the dispute at the lowest reasonable cost to ratepayers,  
4 while balancing other public interest objectives, including  
5 protection of public health and safety, promotion of a sound  
6 economy, conservation of resources, preservation of  
7 environmental quality, and promotion of adequate, just, and  
8 reasonable service.

9 SEC. 2. Section 301 of the Public Utilities Code is amended  
10 to read:

11 301. As provided in Section 1 of Article XII of the  
12 Constitution of this state, the Public Utilities Commission consists  
13 of five members appointed by the Governor and approved by the  
14 Senate, a majority of the membership concurring, for staggered  
15 six-year terms. A vacancy is filled for the remainder of the term.  
16 The Legislature may remove a member for incompetence, neglect  
17 of duty, or corruption, two-thirds of the membership of each house  
18 concurring.

19 SEC. 2.3. Section 303 of the Public Utilities Code is amended  
20 to read:

21 303. (a) A public utilities commissioner may not hold an  
22 official relation to nor have a financial interest in a person or  
23 corporation subject to regulation by the commission. If any  
24 commissioner acquires a financial interest in a corporation or  
25 person subject to regulation by the commission other than  
26 voluntarily, his or her office shall become vacant unless within a  
27 reasonable time he or she divests himself or herself of the interest.

28 (b) The commission shall adopt an updated Conflict of Interest  
29 Code and Statement of Incompatible Activities, by February 28,  
30 2005, in a manner consistent with applicable law.

31 SEC. 2.5. Section 303.5 is added to the Public Utilities Code,  
32 to read:

33 303.5. (a) No person shall be a member of the commission  
34 who, during the two years prior to appointment to the commission,  
35 received any substantial portion of his or her income directly or  
36 indirectly from any person or corporation subject to regulation by  
37 the commission. No member of the commission shall be employed  
38 by any person or corporation subject to regulation by the  
39 commission during the term he or she is a member of the



1 commission, or within two years after he or she ceases to be a  
2 member of the commission.

3 (b) The members of the commission shall not hold any other  
4 elected or appointed public office or position.

5 (c) The members of the commission and all employees of the  
6 commission shall comply with all applicable provisions of Section  
7 19990 of the Government Code.

8 (d) No person who is a member or employee of the commission  
9 shall participate personally and substantially as a member or  
10 employee of the commission, in any matter in which, to his or her  
11 knowledge, he or she, his or her spouse, minor child, or partner,  
12 or any organization in which he or she is serving, or has served as  
13 officer, director, trustee, partner, or employee while serving as a  
14 member or employee of the commission or within two years prior  
15 to her or his appointment as a member of the commission, has a  
16 direct or indirect financial interest.

17 (e) No person who is a partner, employer, or employee of a  
18 member or employee of the commission shall act as an attorney,  
19 agent, or employee for any person other than the state in  
20 connection with any matter in which the commission is a party or  
21 has a direct and substantial interest.

22 Sec. 2.7. Section 330 of the Public Utilities Code is repealed.

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

25

26 CHAPTER 2.4. RELIABLE ELECTRIC SERVICE ACT OF 2004

27

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

30 400.1. (a) An electrical corporation has an obligation to, and  
31 shall, plan for and provide its customers with reliable electric  
32 service at just and reasonable rates, pursuant to Section 451,  
33 including those customers that take standby service from the  
34 electrical corporation on a commission-approved rate schedule.

35 (b) For purposes of this chapter, “electric service” includes  
36 providing adequate and efficient resources, including  
37 cost-effective energy efficiency and other demand reduction  
38 resources, utility-owned and procured generation resources, such  
39 as new and repowered generation resources, cogeneration, and  
40 renewable generation resources, transmission and distribution



1 resources, metering, billing, and employing an adequately sized,  
2 well-trained utility workforce, including contracting for  
3 maintenance of generation facilities.

4 (c) Notwithstanding subdivisions (a) and (b), an electrical  
5 corporation has no obligation to plan for or procure electricity or  
6 meet resource adequacy requirements for any customer that has  
7 entered into a direct transaction.

8 400.5. (a) To ensure that adequate investments are made in  
9 resources necessary to provide customers with reliable electric  
10 service, the commission shall authorize an electrical corporation  
11 to provide efficient, cost-effective resources, including  
12 cost-effective energy efficiency and demand reduction resources,  
13 utility-owned and procured generation resources, which may  
14 include, among other resources, new and repowered generation  
15 resources, cogeneration, and renewable generation resources,  
16 consistent with the electrical corporation's long-term integrated  
17 resource plan approved pursuant to Section 400.11 and its  
18 procurement plan adopted pursuant to Section 454.5.

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

22 (1) The electrical corporation's initial capital investment in  
23 generation resources specified, found reasonable, and approved in  
24 the certificate of public convenience and necessity if the  
25 investment complies with the conditions specified by the  
26 commission in the certificate of public convenience and necessity  
27 at the time the investment is approved.

28 (2) The electrical corporation's full cost of contracting for  
29 generation resources with another entity found reasonable  
30 pursuant to Sections 454.5 and Article 16 (commencing with  
31 Section 399.11) of Chapter 2.3, taking into account any collateral  
32 requirements and debt equivalence associated with the contract, in  
33 a manner determined by the commission to provide the best value  
34 to ratepayers.

35 (c) Nothing in this chapter alters the requirements of Section  
36 451, 454.5, 455.5, 463, or 1005.5.

37 (d) It is the intent of the Legislature in enacting this section to  
38 reaffirm California's traditional regulatory doctrine, under which  
39 an electrical corporation has the obligation to provide reliable  
40 electric service at just and reasonable rates, and the commission



1 ensures that the electrical corporation is afforded the means to  
2 carry out this obligation, specifically including a reasonable  
3 opportunity to fully recover from all customers of the electrical  
4 corporation, in a manner determined by the commission pursuant  
5 to this code, a return of, and a reasonable return on, reasonable  
6 investments in utility-owned generation, transmission, and  
7 distribution resources that are necessary to meet the utility's  
8 obligation, the utility's reasonable costs to operate and maintain  
9 those resources, and the utility's reasonable costs for nonutility  
10 generation resources procured in accordance with Section 454.5  
11 and Article 16 (commencing with Section 399.11).

12 400.10. (a) To ensure that adequate investments necessary to  
13 meet the electrical corporation's obligation to provide reliable  
14 electric service are made, every electrical corporation shall,  
15 commencing on January 1, 2006, and at least every three years  
16 thereafter, prepare and file with the commission a long-term  
17 integrated resource plan.

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

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

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

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

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

31 (5) Provide for funding of all practicable and cost-effective  
32 energy efficiency and load management resources.

33 (6) Provide for investments in, or procurement of, necessary  
34 generation resources, and may include extensions, renewals, or  
35 renegotiations of contracts for existing generation resources, new  
36 or repowered generation, and cogeneration projects.

37 (7) Provide that an electrical corporation meets resource  
38 adequacy requirements established by the commission pursuant to  
39 Section 400.22, for the electric load served by the electrical  
40 corporation. For purposes of this chapter, "electric load served by



1 the electrical corporation, including load served under a standby  
2 tariff,” does not include the electrical load of customers who have  
3 entered into a direct transaction.

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

7 (c) The long-term integrated resource plan may provide for  
8 investments in distributed generation that would improve  
9 electrical system reliability, thereby deferring or eliminating  
10 investments in distribution facilities that would otherwise be  
11 needed to improve system reliability, by either direct investment  
12 by the electrical corporation or under contract with a retail  
13 customer or a third party, if the commission finds that the  
14 investment in distributed generation would accomplish both of the  
15 following:

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

18 (2) Provide the required reliability and operational  
19 characteristics to support adequate service reliability to customers  
20 in the affected area.

21 (d) If the distributed generation is provided under contract with  
22 a retail customer or a third party to reduce distribution system  
23 loads, the retail customer or third party shall maintain physical  
24 assurance that the contracted load reduction will be available  
25 during all required time periods.

26 400.11. The commission shall, after public hearing, review  
27 and approve a long-term integrated resource plan for every  
28 electrical corporation, including those revisions to the plan that the  
29 commission determines are necessary to meet the requirements of  
30 Section 400.10 and achieve best value for utility customers.

31 400.15. In accordance with an electrical corporation’s  
32 long-term integrated resource plan approved pursuant to Section  
33 400.11, and consistent with Sections 454.5 and 701.1 and Article  
34 16 (commencing with Section 399.11), to meet resource adequacy  
35 requirements, each electrical corporation shall manage a  
36 diversified, efficient, cost-effective, environmentally responsible  
37 portfolio of non-utility-owned generation under contract with the  
38 utility, and utility-owned generation, combining the potential  
39 benefits of a competitive wholesale market, including operating  
40 efficiencies and lower prices, with the stability of cost-based



1 generation resources, to achieve best value for ratepayers at just  
2 and reasonable rates.

3 400.18. (a) The commission shall, on or before July 1, 2005,  
4 prepare and submit to the Governor and the Legislature, a  
5 comprehensive plan to streamline the transmission siting process.  
6 The plan shall, at a minimum, include recommendations to  
7 eliminate regulatory overlap and duplication, and  
8 recommendations to reduce the time needed to process a request  
9 for transmission improvements. The commission shall consult  
10 with the State Energy Resources Conservation and Development  
11 Commission, the Independent System Operator, electrical  
12 corporations, and interested parties in the development and  
13 preparation of the plan.

14 (b) On or before December 31, 2005, the commission shall  
15 prepare and transmit a report to the Legislature summarizing the  
16 status of proceedings for each site for authorization of construction  
17 of all upgrades, improvements, or additions to the transmission  
18 system infrastructure determined by the electrical corporation to  
19 be necessary to ensure reliability and for which the electrical  
20 corporation has filed an application for a certificate of public  
21 convenience and necessity. The report shall include action that the  
22 commission has taken or proposes to take to facilitate the siting and  
23 authorization of those facilities and the schedule for completion in  
24 order to address the reliability needs identified by the electrical  
25 corporation. To the extent that the commission determines that the  
26 transmission upgrade, improvement, or addition is not needed, the  
27 commission shall identify the alternative it intends to pursue in  
28 order to ensure reliability. The commission shall annually update  
29 its report as part of its annual workplan.

30 400.22. (a) All electrical load serving entities, including  
31 nonutility electric service providers and community choice  
32 aggregators, shall be subject to the same requirements for resource  
33 adequacy, resource diversity, cost-effective energy efficiency, and  
34 the renewable portfolio standard, that are applicable to electrical  
35 corporations pursuant to this section, or otherwise as required by  
36 law, or by order or decision of the commission.

37 (b) The commission, in consultation with the Independent  
38 System Operator, shall establish resource adequacy requirements  
39 to ensure that adequate physical generating capacity dedicated to  
40 serving all load requirements is available to meet peak demand and



1 planning and operating reserves, at or deliverable to locations and  
2 at times as may be necessary to ensure local area reliability and  
3 system reliability, at just and reasonable rates.

4 (c) The commission shall implement and enforce these  
5 resource adequacy requirements in a nondiscriminatory manner as  
6 to all load serving entities. The electrical corporation's costs of  
7 meeting those resource adequacy requirements, including the  
8 costs associated with system reliability and local area reliability,  
9 that are found reasonable by the commission, shall be fully  
10 recoverable from those customers taking service from the  
11 electrical corporation, at the time the commitment to incur the cost  
12 is made or thereafter, on a fully non-bypassable basis pursuant to  
13 rates that are just and reasonable, as determined by the  
14 commission.

15 (d) Resource adequacy requirements established by the  
16 commission shall provide for, and ensure, all of the following:

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

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

21 (3) Adequate and timely investment in new generating capacity  
22 to meet future load requirements, including planning and  
23 operating reserves.

24 (4) Market power mitigation.

25 (5) Deliverability.

26 (6) In order to ensure that new resources can be constructed if  
27 necessary to meet the need, resource commitments by load serving  
28 entities shall be made sufficiently far in advance, and no less than  
29 three years in advance of need.

30 (e) Load serving entities may procure physical generating  
31 capacity through a market-based mechanism, provided that the  
32 commission, after a hearing, determines that there is convincing  
33 factual evidence that the mechanism will achieve all of the  
34 following:

35 (1) Adequate physical generating capacity dedicated to serve  
36 all load requirements when and where the electricity is needed,  
37 including planning and operating reserves to ensure local area  
38 reliability and system reliability.



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

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

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

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

10 (f) The commission shall adopt rules and regulations necessary  
11 to enforce resource adequacy requirements established pursuant to  
12 this section uniformly among all load serving entities, including  
13 establishing a uniform accounting mechanism to identify, count,  
14 track, and verify all capacity needed to meet these resource  
15 adequacy requirements for each load serving entity. Pursuant to its  
16 authority to revoke or suspend registration pursuant to Section  
17 394.25, the commission shall suspend the registration for a  
18 specified period, or revoke the registration, of an electric service  
19 provider that fails to comply with the rules and regulations adopted  
20 by the commission to enforce resource adequacy requirements.

21 (g) For purposes of this chapter, “load serving entity” does not  
22 include a local publicly owned electric utility as defined in Section  
23 9604, the State Water Resources Development System commonly  
24 known as the State Water Project, or customer generation-, if the  
25 customer generation (1) takes standby service from the electrical  
26 corporation on a commission-approved rate schedule that requires  
27 the customer’s load serving entity to provide for adequate backup  
28 planning and operating reserves for that customer generation or (2)  
29 is not physically interconnected to the transmission grid, so that if  
30 the customer generation fails, backup power is not supplied from  
31 the electricity grid.

32 400.30. To ensure that the obligation to provide customers  
33 with reliable electric service at just and reasonable rates is met by  
34 an electrical corporation, the commission shall adopt rules and  
35 regulations consistent with the policies and provisions of this  
36 chapter.

37 400.40. Nothing in this chapter shall alter or affect any  
38 outcome of a competitive procurement process conducted by an  
39 electrical corporation pursuant to any other law, including Section  
40 454.5, prior to January 1, 2005.



1 400.50. Nothing in this chapter shall alter or affect the  
2 implementation of the California Renewables Portfolio Standard  
3 Program pursuant to Article 16 (commencing with Section  
4 399.11).

5 400.60. (a) Nothing in this chapter limits the ability of any  
6 customer to participate in a Community Choice Aggregation  
7 program pursuant to Section 366.2.

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

19 400.70. On or before June 30, 2006, the commission shall  
20 prepare and submit to the Legislature a report describing the extent  
21 to which existing rate allocations for each customer class reflect  
22 cost of service and describing how the continuing costs resulting  
23 from the energy crisis of 2000–01, including, but not limited to,  
24 bond charges and above-market contract costs incurred by the  
25 Department of Water Resources, are being recovered from each  
26 customer class.

27 SEC. 4. Section 454.05 is added to the Public Utilities Code,  
28 to read:

29 454.05. ~~Every~~ *Except as provided in Section 455, every*  
30 decision of the commission pursuant to Section 454 that approves  
31 a change in rates or an alteration of any utility classification,  
32 contract, practice, project, or rule that affects rates directly or  
33 indirectly pursuant to Section 454, or the settlement of any judicial  
34 or administrative proceeding to which the commission is a party  
35 and that results in a change in rates or a change in a utility  
36 classification, contract, practice, project, or rule that affects rates  
37 directly or indirectly, shall be made by vote of a majority of the  
38 commission membership in a public meeting of the commission.  
39 A decision made in violation of this section is void.



1 SEC. 5. Section 1001.7 is added to the Public Utilities Code,  
2 to read:

3 1001.7. (a) Prior to approving a certificate of public  
4 convenience and necessity for generation resources proposed to be  
5 constructed by an applicant electrical corporation, the commission  
6 shall do all of the following:

7 ~~(a)~~

8 (1) Include in the proceeding a timely opportunity for any other  
9 creditworthy party to submit a proposal for construction of  
10 alternative generation resources if the proposal meets the same or  
11 higher standards for cost to ratepayers and local area and  
12 system-wide reliability as the proposal of the applicant electrical  
13 corporation.

14 ~~(b)~~

15 (2) Evaluate and determine whether a proposal for an  
16 alternative generation resources project submitted pursuant to  
17 subdivision (a), other than the proposal of the applicant electrical  
18 corporation, would provide the same or lower cost to ratepayers,  
19 same or better local area and system-wide reliability, and the same  
20 or superior environmental benefits.

21 ~~(c) Find that, consistent with subdivision (b) and Section~~  
22 ~~400.15, the certificate of public convenience and necessity~~  
23 ~~achieves the best value for ratepayers.~~

24 (b) *The commission shall reject the certificate of public*  
25 *convenience and necessity for generation resources proposed to be*  
26 *constructed by an applicant electrical corporation if the*  
27 *commission determines that an alternative generation resources*  
28 *project submitted pursuant to subdivision (a) provides all of the*  
29 *following:*

30 (1) *The same or superior local area and systemwide reliability*  
31 *than the generation resource proposed to be constructed by an*  
32 *applicant electrical corporation.*

33 (2) *The same or superior environmental benefits than the*  
34 *generation resource proposed to be constructed by an applicant*  
35 *electrical corporation*

36 (3) *A lower cost to ratepayers than the generation resource*  
37 *proposed to be constructed by an applicant electrical corporation.*

38 SEC. 6. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school



1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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