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SENATE BILL

No. 1478

Introduced by Senator Sher

(Principal coauthor: Assembly Member Jackson)

February 19, 2004

An act to amend Sections 25740, 25743, 25744, and 25748 of, and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 387, 399.11, 399.12, 399.13, 399.14, 399.15, and 399.16 of, and to add Section 399.17 to, *and Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of*, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1478, as amended, Sher. Renewable energy.

(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at

least 17% of the total electricity generated for consumption in California per year by 2006.

This bill would recast that intent language so that the amount of renewable electricity generated per year is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by 2010, rather than 2006. The bill would make conforming changes.

(2) The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The 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, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017.

This bill would instead require that each electrical corporation increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

This bill would require the Energy Commission to establish a renewable energy credit, as defined, trading program and to develop tracking, accounting, verification, and enforcement mechanisms for the program. The bill would prohibit the Energy Commission from certifying or awarding tradeable renewable energy credits for



electricity generated pursuant to any electricity purchase contract with a retail seller executed before January 1, 2005, that does not contain explicit terms and conditions specifying the ownership or disposition of those credits. *The bill would prohibit the Energy Commission from certifying or awarding tradeable renewable energy credits for electricity generated pursuant to any purchase contract executed after January 1, 2005, pursuant to a prescribed federal act.* The bill would provide for the tracking of ~~those credits deliveries under these purchase contracts~~ through a prescribed accounting system. The bill would additionally require the Energy Commission to require any retail seller of electricity that does not meet the requirements of the renewables portfolio standard by directly owning or purchasing electricity generated from eligible renewable energy resources, to purchase renewable energy credits for a quantity of electricity produced from eligible renewable energy resources, that is sufficient to make up the shortfall. The bill would require the CPUC to establish rules authorizing electrical corporations to meet the renewables portfolio standard requirements using renewable energy credits. The bill would require the rules to prohibit an electrical corporation from selling renewable energy credits associated with eligible renewable energy resources included in the corporation's baseline quantity on January 1, 2004. ~~The bill would require new contracts executed after January 1, 2005, with an eligible renewable energy resource, pursuant to prescribed federal law, to include the option to elect a fixed energy prices for the duration of the contract as determined by the CPUC.~~ The bill would require the Energy Commission to certify, and would specify criteria for, the eligibility of renewable energy credits associated with electricity delivered to a local publicly owned electric utility by an eligible renewable energy resource, for purposes of compliance with the portfolio standard by a retail seller. The bill would make other technical and conforming changes.

(4) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to annually report certain information relative to renewable energy resources to its customers.



This bill would additionally require that the governing board of a local publicly owned electric utility report to the Energy Commission the information that they are required to annually report to their customers. The bill would require the Energy Commission to report to the Governor and Legislature no later than January 1, 2006, with recommendations for how to incentivize each local publicly owned electric utility to implement and enforce a renewables portfolio standard program consistent with the renewables portfolio standard program requirements applicable to a retail seller of electricity.

(5) Under the Public Utilities Act, the CPUC requires electrical corporations to identify a separate 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. The funds 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 (renewable energy public goods charge). Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the Energy Commission to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation pursuant to a competitive solicitation procedure found by the CPUC to comply with the Renewables Portfolio Standard Program and that the project participant has entered into a purchase power agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize a project selected for a power purchase contract by another retail seller to receive supplemental energy payments if retail seller demonstrates to the CPUC that the project selection is consistent with a least-cost, best-fit process, and that the payments are reasonable in comparison to those paid under contracts with other retail sellers. The bill would prohibit the Energy Commission from awarding supplemental energy



~~payments for the sale or purchase of renewable energy credits~~ *certain projects to receive supplemental energy payments under certain circumstances.* The bill would revise existing criteria for Energy Commission consideration of an out-of-state electrical generation facility as an eligible renewable energy resource.

(6) Existing law requires 17.5% of the money collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications, and that certain funds be expended in accordance with the above-described report, subject to, among other things, the requirement that funding for emerging technologies be provided through a competitive, market-based process.

This bill would recast the competitive process so that funding would be provided to projects chosen through a competitive, market-based process that is in place for not less than five years, and would be structured to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(7) Existing law requires 10% of the money collected under the renewable energy public goods charge be used for customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

This bill would delete this provision.

(8) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the CPUC's approval of a purchase power agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

(9) *This bill would require an electrical corporation or local publicly owned utility to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.*

(10) This bill would delete certain obsolete and duplicative provisions and make technical and conforming changes.

~~(10)~~



(11) Existing law makes a violation of the Public Utilities Act or a violation of an order of the CPUC a crime.

Because a violation of the provisions of the bill or of any CPUC order implementing these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

~~(11)–~~

(12) 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. Section 25740 of the Public Resources Code is
2 amended to read:

3 25740. It is the intent of the Legislature in establishing this
4 program, to increase the amount of renewable electricity
5 generated per year, so that it equals at least 20 percent of the total
6 electricity sold to retail customers in California per year by the
7 year 2010.

8 SEC. 2. Section 25743 of the Public Resources Code is
9 amended to read:

10 25743. (a) Fifty-one and one-half percent of the money
11 collected pursuant to the renewable energy public goods charge
12 shall be used for programs designed to foster the development of
13 new in-state renewable electricity generation facilities, and to
14 secure for the state the environmental, economic, and reliability
15 benefits that operation of those facilities will provide.

16 (b) Any funds used for new in-state renewable electricity
17 generation facilities pursuant to this section shall be expended in
18 accordance with the report, subject to all of the following
19 requirements:

20 (1) In order to cover the above market costs of renewable
21 resources as approved by the Public Utilities Commission and
22 selected by retail sellers to fulfill their obligations under Article 16
23 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of



Division 1 of the Public Utilities Code, the commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

(A) The commission may establish caps on supplemental energy payments. The caps shall be designed to provide for a viable energy market capable of achieving the goals of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of the Public Utilities Code. The commission may waive application of the caps to accommodate a facility if it is demonstrated to the satisfaction of the commission that operation of the facility would provide substantial economic and environmental benefits to end-use customers subject to the funding requirements of the renewable energy public goods charge.

(B) Supplemental energy payments shall be awarded only to facilities that are eligible for funding under this subdivision.

(C) Supplemental energy payments awarded to facilities selected by an electrical corporation pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be paid for ~~no longer than 10 years. Payments shall be equal to the cumulative above-market costs over the duration of the contract with the electrical corporation, based upon the market price at the time of contracting, subject to the caps on supplemental energy payments established by the commission pursuant to subparagraph (A).~~ *the lesser of 10 years or the duration of the contract with the electrical corporation.*

(D) The commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation or that fail to meet eligibility requirements.

(E) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(F) A project may receive funds pursuant to this section only if it is selected by an electrical corporation pursuant to a competitive solicitation that is found by the Public Utilities Commission to comply with the California Renewables Portfolio Standard Program under Article 16 (commencing with Section

399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code and that has entered a purchase power agreement resulting from that solicitation that is approved by the Public Utilities Commission. ~~A project selected for a power project contract by another retail seller may receive supplemental energy payments if the retail seller demonstrates to the Public Utilities Commission that the selection of this project is consistent with the results of a least-cost, best-fit process and that the supplemental energy payments are reasonable in comparison to those paid under contracts with other retail sellers. The commission may not award supplemental energy payments for the sale or purchase of renewable energy credits. Commission. Projects selected by other retail sellers may receive supplemental energy payments if the Public Utilities Commission develops an approval process that incorporates the same terms and conditions applicable to comparable contracts with an electrical corporation.~~

(2) The commission may determine as part of a solicitation, that a facility that does not meet the definition of an “in-state renewable electricity generation technology” facility solely because it is located outside the state, is eligible for funding under this subdivision if it meets all of the following requirements:

(A) It is located so that it is or will be connected to the Western Electricity Coordinating Council (WECC) transmission system.

(B) It is developed with guaranteed contracts to sell its generation to end-use customers subject to the funding requirements of Section 381, or to marketers that provide this guarantee for resale of the generation, for a period of time at least equal to the amount of time it receives incentive payments under this subdivision.

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

(D) 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.

(E) It meets any other condition established by the commission.

(3) Facilities that are eligible to receive funding pursuant to this subdivision shall be registered in accordance with criteria developed by the commission and those facilities may not receive

1 payments for any electricity produced that has any of the following
2 characteristics:

3 (A) Is sold under an existing long-term contract with an
4 existing in-state electrical corporation if the contract includes
5 fixed energy or capacity payments, except for that electricity that
6 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
7 Section 399.6 of the Public Utilities Code.

8 (B) Is used onsite or is sold to customers in a manner that
9 excludes competitive transition charge payments, or is otherwise
10 excluded from competitive transition charge payments.

11 (C) Is produced by a facility that is owned by an electrical
12 corporation or a local publicly owned electric utility as defined in
13 subdivision (d) of Section 9604 of the Public Utilities Code.

14 (D) Is a hydroelectric generation project that will require a new
15 or increased appropriation of water under Part 2 (commencing
16 with Section 1200) of Division 2 of the Water Code.

17 (E) Is a solid waste conversion facility, unless the facility meets
18 the criteria established in paragraph (3) of subdivision (a) of
19 Section 25741 and the facility certifies that any local agency
20 sending solid waste to the facility is in compliance with Division
21 30 (commencing with Section 40000), has reduced, recycled, or
22 composted solid waste to the maximum extent feasible, and shall
23 have been found by the California Integrated Waste Management
24 Board to have diverted at least 30 percent of all solid waste through
25 source reduction, recycling, and composting.

26 (4) Eligibility to compete for funds or to receive funds shall be
27 contingent upon having to sell the output of the renewable
28 electricity generation facility to customers subject to the funding
29 requirements of the renewable energy public goods charge.

30 (5) The commission may require applicants competing for
31 funding to post a forfeitable bid bond or other financial guaranty
32 as an assurance of the applicant's intent to move forward
33 expeditiously with the project proposed. The amount of any bid
34 bond or financial guaranty may not exceed 10 percent of the total
35 amount of the funding requested by the applicant.

36 (6) In awarding funding, the commission may provide
37 preference to projects that provide tangible demonstrable benefits
38 to communities with a plurality of minority or low-income
39 populations.

1 (c) Repowered existing facilities shall be eligible for funding
2 under this subdivision if the capital investment to repower the
3 existing facility equals at least 80 percent of the value of the
4 repowered facility.

5 (d) Facilities engaging in the direct combustion of municipal
6 solid waste or tires are not eligible for funding under this
7 subdivision.

8 (e) Production incentives awarded under this subdivision prior
9 to January 1, 2002, shall commence on the date that a project
10 begins electricity production, provided that the project was
11 operational prior to January 1, 2002, unless the commission finds
12 that the project will not be operational prior to January 1, 2002, due
13 to circumstances beyond the control of the developer. Upon
14 making a finding that the project will not be operational due to
15 circumstances beyond the control of the developer, the
16 commission shall pay production incentives over a five-year
17 period, commencing on the date of operation, provided that the
18 date that a project begins electricity production may not extend
19 beyond January 1, 2007.

20 (f) Facilities generating electricity from biomass energy shall
21 be considered an in-state renewable electricity generation
22 technology facility to the extent that they report to the commission
23 the types and quantities of biomass fuels used and certify to the
24 satisfaction of the commission that fuel utilization is limited to the
25 following:

26 (1) Agricultural crops and agricultural wastes and residues.

27 (2) Solid waste materials such as waste pallets, crates, dunnage,
28 manufacturing, and construction wood wastes, landscape or
29 right-of-way tree trimmings, mill residues that are directly the
30 result of the milling of lumber, and rangeland maintenance
31 residues.

32 (3) Wood and wood wastes that meet all of the following
33 requirements:

34 (A) Have been harvested pursuant to an approved timber
35 harvest plan prepared in accordance with the Z'berg-Nejedly
36 Forest Practice Act of 1973 (Chapter 8 (commencing with Section
37 4511) of Part 2 of Division 4).

38 (B) Have been harvested for the purpose of forest fire fuel
39 reduction or forest stand improvement.



(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

SEC. 3. Section 25744 of the Public Resources Code is amended to read:

25744. (a) Seventeen and one-half percent of the money collected pursuant to the renewable energy public goods charge shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

(b) Any funds used for emerging technologies pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) Funding for emerging technologies shall be provided through a competitive, market-based process that is in place for a period of not less than five years, and is structured to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(2) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to paragraph (3), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the purchase or lease cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical generating capacity of the system measured in watts, or the amount of electricity production of the system, measured in kilowatthours. Incentives shall be limited to a maximum percentage of the system price, as determined by the commission.

(3) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than 50 kilowatts rated electrical generating capacity per customer site, and other distributed renewable emerging technologies that meet the emerging technology eligibility criteria established by the

1 commission. Eligible electricity generating systems are intended
2 primarily to offset part or all of the consumer's own electricity
3 demand, and shall not be owned by local publicly owned electric
4 utilities, nor be located at a customer site that is not receiving
5 distribution service from an electrical corporation that is subject
6 to the renewable energy public goods charge and contributing
7 funds to support programs under this chapter. All eligible
8 electricity generating system components shall be new and
9 unused, shall not have been previously placed in service in any
10 other location or for any other application, and shall have a
11 warranty of not less than five years to protect against defects and
12 undue degradation of electrical generation output. Systems and
13 their fuel resources shall be located on the same premises of the
14 end-use consumer where the consumer's own electricity demand
15 is located, and all eligible electricity generating systems shall be
16 connected to the utility grid in California. The commission may
17 require eligible electricity generating systems to have meters in
18 place to monitor and measure a system's performance and
19 generation. Only systems that will be operated in compliance with
20 applicable law and the rules of the Public Utilities Commission
21 shall be eligible for funding.

22 (4) The commission shall limit the amount of funds available
23 for any system or project of multiple systems and reduce the level
24 of funding for any system or project of multiple systems that has
25 received, or may be eligible to receive, any government or utility
26 funds, incentives, or credit.

27 (5) In awarding funding, the commission may provide
28 preference to systems that provide tangible demonstrable benefits
29 to communities with a plurality of minority or low-income
30 populations.

31 (6) In awarding funding, the commission shall develop and
32 implement eligibility criteria and a system that provides
33 preference to systems based upon system performance, taking into
34 account factors, including shading, insulation levels, and
35 installation orientation.

36 (7) At least once annually, the commission shall publish and
37 make available to the public the balance of funds available for
38 emerging renewable energy resources for rebates, buydowns, and
39 other incentives for the purchase of these resources.



1 SEC. 4. Section 25745 of the Public Resources Code is
2 repealed.

3 SEC. 5. Section 25748 of the Public Resources Code is
4 amended to read:

5 25748. The commission shall report to the Legislature on or
6 before May 31, 2000, and on or before May 31 of every second
7 year thereafter, regarding the results of the mechanisms funded
8 pursuant to this chapter. Reports prepared pursuant to this section
9 shall include a description of the allocation of funds among
10 existing, new and emerging technologies; the allocation of funds
11 among programs, including consumer-side incentives; and the
12 need for the reallocation of money among those technologies. The
13 report shall identify the types and quantities of biomass fuels used
14 by facilities receiving funds pursuant to Section 25743 and their
15 impacts on improving air quality. The reports shall discuss the
16 progress being made toward achieving the targets established
17 under Section 25740 by each funding category authorized
18 pursuant to this chapter. The reports shall also address the
19 allocation of funds from interest on the accounts described in this
20 chapter, and money in the accounts described in subdivision (b) of
21 Section 25751. Money may be reallocated without further
22 legislative action among existing, new, and emerging technologies
23 and consumer-side programs in a manner consistent with the
24 report and with the latest report provided to the Legislature
25 pursuant to this section, except that reallocations may not reduce
26 the allocation established in Section 25743 nor increase the
27 allocation established in Section 25742.

28 SEC. 6. Section 25749 of the Public Resources Code is
29 repealed.

30 SEC. 7. Section 387 of the Public Utilities Code is amended
31 to read:

32 387. (a) Each governing body of a local publicly owned
33 electric utility, as defined in Section 9604, shall be responsible for
34 implementing and enforcing a renewables portfolio standard that
35 recognizes the intent of the Legislature to encourage renewable
36 resources, while taking into consideration the effect of the
37 standard on rates, reliability, and financial resources and the goal
38 of environmental improvement.

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and the State Energy Resources Conservation and Development Commission, the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or 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 considered eligible renewable energy resources as defined by Section 399.12.

SEC. 8. 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 20 percent by the year 2010 renewable energy for the State of California and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the California Public Utilities Commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on 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 renewable energy resources may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Sections 383.5 and 445.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewable portfolio standard targets. In order to attain a target of 20 percent by 2010,

the state must expedite regulatory proceedings related to the addition or modification of electric transmission by fast-tracking the processing of transmission permit requests needed to facilitate the development or delivery of renewable generation. It is the intent of the Legislature that the commission report to the Legislature annually, consistent with its reporting obligations under Section 1701.6, the actions it has taken to fast-track completion of proceedings related to the addition or modification of electric transmission needed to access renewable power, and the results of those actions.

SEC. 9. 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) “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 limitations:

(1) (A) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller’s baseline quantity of eligible renewable energy resources except for electricity certified as incremental geothermal production by the Energy Commission, provided that the incremental electricity that is generated was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining geothermal output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(B) This paragraph shall remain operative only until January 1, 2010.

(2) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2003, and that electricity shall be eligible only for purposes of establishing the baseline. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or

1 increased appropriation or diversion of water under Part 2
2 (commencing with Section 1200) of Division 2 of the Water Code.

3 (B) *Notwithstanding subparagraph (A) an existing conduit*
4 *hydroelectric facility of 30 megawatts or less as defined by Section*
5 *823a of Title 16 of the United States Code, shall be eligible for the*
6 *purposes of establishing a retail seller's baseline quantity of*
7 *eligible renewable energy resources. A new conduit hydroelectric*
8 *facility of 30 megawatts or less, as defined by Section 823a of Title*
9 *16 of the United States Code, shall be an eligible renewable energy*
10 *resource if it does not require a new or increased appropriation or*
11 *diversion of water under Part 2 (commencing with Section 1200)*
12 *of Division 2 of the Water Code.*

13 (3) A facility engaged in the combustion of municipal solid
14 waste shall not be considered an eligible renewable resource unless
15 it is located in Stanislaus County and was operational prior to
16 September 26, 1996. Electricity generated by a facility meeting
17 these requirements shall be eligible only for the purpose of
18 adjusting a retail seller's baseline quantity of eligible renewable
19 energy resources.

20 (4) Notwithstanding paragraph (1), any geothermal electricity
21 included in the baseline of a retail seller from a facility under a
22 long-term contract executed before January 1, 2004, shall be
23 eligible to satisfy the annual procurement targets of any retail
24 seller upon the expiration of that contract.

25 (b) "Energy Commission" means the State Energy Resources
26 Conservation and Development Commission.

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

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

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

36 (3) An electric service provider, as defined in Section 218.3
37 subject to the following conditions:

38 (A) An electric service provider shall be considered a retail
39 seller under this article for sales to any customer acquiring service
40 after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing in this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. 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 transactions 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 power 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, as defined in Section 9604.

(d) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

(e) “Renewable energy credit” means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated by an eligible renewable energy resource and delivered to a retail seller or the Independent System Operator. The Energy Commission shall ensure that the renewable energy credit includes, *but is not limited to*, all renewable and environmental attributes associated with renewable electricity production. The Energy Commission shall consult with the commission in establishing the definition of a renewable energy credit, to ensure compatibility with the standard contract terms adopted pursuant to Section 399.14 and to protect the interests of

1 ratepayers. Any electricity generated by an eligible renewable
2 energy resource attributable to the use of nonrenewable fuels,
3 beyond a de minimus quantity, as determined by the Energy
4 Commission, shall not result in the creation of any renewable
5 energy credits.

6 SEC. 10. Section 399.13 of the Public Utilities Code is
7 amended to read:

8 399.13. The Energy Commission shall do all of the following:

9 (a) Certify eligible renewable energy resources that it
10 determines meet the criteria described in subdivision (a) of Section
11 399.12.

12 (b) Design and implement an accounting system to verify
13 compliance with the renewables portfolio standard by retail
14 sellers, to ensure that renewable energy output is counted only
15 once for the purpose of meeting the renewables portfolio standard
16 of this state or any other state, to certify renewable energy credits
17 produced by eligible renewable energy resources, and to verify
18 retail product claims in this state or any other state. In establishing
19 the guidelines governing this system, the Energy Commission
20 shall collect data from electricity market participants that it deems
21 necessary to verify compliance of retail sellers, in accordance with
22 the requirements of this article and the California Public Records
23 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
24 of Title 1 of the Government Code). In seeking data from electrical
25 corporations, the Energy Commission shall request data from the
26 commission. The commission shall collect data from electrical
27 corporations and remit the data to the Energy Commission within
28 90 days of the request.

29 (c) Establish a system for tracking and verifying renewable
30 energy credits. The Energy Commission shall consult with other
31 states in the Western Electricity Coordinating Council
32 transmission system to develop consistent mechanisms and
33 protocols for verifying renewable energy credits and to prevent
34 double counting of the electricity generated from any renewable
35 energy resource.

36 (d) Allocate and award supplemental energy payments
37 pursuant to Chapter 8.6 (commencing with Section 25740) of
38 Division 15 of the Public Resources Code, to eligible renewable
39 energy resources to cover above-market costs of renewable
40 energy. A project may receive supplemental energy payments only

1 if it is selected by an electrical corporation pursuant to a
 2 competitive solicitation that is found by the commission to comply
 3 with the California Renewables Portfolio Standard Program under
 4 this article and that has entered a purchase power agreement
 5 resulting from that solicitation that is approved by the commission.
 6 ~~A project selected for a power purchase contract by another retail~~
 7 ~~seller may receive supplemental energy payments if the retail~~
 8 ~~seller demonstrates to the Public Utilities Commission that the~~
 9 ~~selection of this project is consistent with the results of a least-cost,~~
 10 ~~best-fit process and that the supplemental energy payments are~~
 11 ~~reasonable in comparison to those paid under contracts with other~~
 12 ~~retail sellers. Projects selected by other retail sellers may receive~~
 13 ~~supplemental energy payments if the commission develops an~~
 14 ~~approval process that incorporates the same terms and conditions~~
 15 ~~applicable to comparable contracts with an electrical~~
 16 ~~corporation.~~ The Energy Commission may not award
 17 supplemental energy payments for the sale or purchase of
 18 renewable energy credits.

19 (e) Certify, for purposes of compliance with the renewables
 20 portfolio standard by a retail seller, the eligibility of renewable
 21 energy credits associated with deliveries of electricity by an
 22 eligible renewable energy resource to a local publicly owned
 23 electric utility if the Energy Commission determines that the
 24 following conditions have been satisfied:

25 (1) The local publicly owned electric utility procuring the
 26 electricity complies with the requirements of Section 387.

27 (2) The local publicly owned electric utility has established
 28 annual procurement targets comparable to those applicable to an
 29 electrical corporation, is procuring sufficient eligible renewable
 30 energy resources to satisfy these targets, and will not fail to satisfy
 31 these targets in the event that the renewable energy credit is sold
 32 to another retail seller.

33 (f) The Energy Commission shall not certify or award tradeable
 34 renewable energy credits for electricity generated pursuant to any
 35 electricity purchase contract with a retail seller executed before
 36 January 1, 2005, that does not contain explicit terms and
 37 conditions specifying the ownership or disposition of those
 38 credits. Deliveries under those contracts shall be tracked through
 39 the accounting system described in subdivision (b) and included

1 in the baseline quantity of eligible renewable energy resources of
2 the purchasing retail seller pursuant to Section 399.15.

3 (g) ~~(1)~~ The Energy Commission shall not certify or award
4 tradeable renewable energy credits for electricity generated under
5 any purchase contract executed after January 1, 2005, pursuant to
6 the federal Public Utility Regulatory Policies Act of 1978 (16
7 U.S.C. 2601, et seq.); ~~unless the new or renegotiated contract~~
8 ~~contains explicit terms and conditions specifying the ownership~~
9 ~~and disposition of those credits.~~ Deliveries under these contracts
10 shall be tracked through the accounting system described in
11 subdivision (b) and count towards the portfolio standard
12 obligations of the purchasing retail seller.

13 ~~(2) Any new contracts executed after January 1, 2005, with an~~
14 ~~eligible renewable energy resource pursuant to the federal Public~~
15 ~~Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec 2601 et~~
16 ~~seq.) shall include the option to elect a fixed energy price for the~~
17 ~~duration of the contract, as determined by the commission.~~

18 SEC. 11. Section 399.14 of the Public Utilities Code is
19 amended to read:

20 399.14. (a) The commission shall direct each electrical
21 corporation to prepare renewable energy procurement plans as
22 described in paragraph (3) to satisfy its obligations under the
23 renewables portfolio standard. To the extent feasible, this
24 procurement plan shall be proposed, reviewed, and adopted by the
25 commission as part of, and pursuant to, a general procurement plan
26 process. The commission shall require each electrical corporation
27 to review and update its renewable energy procurement plan as it
28 determines to be necessary.

29 (1) (A) The commission shall not require an electrical
30 corporation to conduct procurement to fulfill the renewables
31 portfolio standard until the commission determines either of the
32 following:

33 (i) The electrical corporation has attained an investment grade
34 credit rating as determined by at least two major rating agencies.

35 (ii) The electrical corporation is able to procure eligible
36 renewable energy resources on reasonable terms, those resources
37 can be financed if necessary, and the procurement will not impair
38 the restoration of an electrical corporation's creditworthiness. This
39 provision shall not apply before April 1, 2004, for any electrical

corporation that on June 30, 2003, is in federal court under Chapter 11 of the federal bankruptcy law.

(B) Within 90 days of the commission's determination as provided in subparagraph (A), an electrical corporation shall conduct solicitations to implement a renewable energy procurement plan. The determination required by this paragraph shall apply only to the requirements established pursuant to this article. The requirements established for an electrical corporation pursuant to Section 454.5 shall be governed by that section.

(2) Not later than six months after the effective date of this section, the commission shall adopt, by rule, for all electrical corporations, 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. In order to ensure that the market price established by the commission pursuant to subdivision (c) of Section 399.15 does not influence the amount of a bid submitted through the competitive solicitation in a manner that would increase the amount ratepayers are obligated to pay for renewable energy, and in order to ensure that the bid price does not influence the establishment of the market price, the electrical corporation shall not transmit or share the results of any competitive solicitation for eligible renewable energy resources until the commission has established market prices pursuant to subdivision (c) of Section 399.15.

(B) A process that provides criteria for the rank ordering and selection of least-cost and best-fit renewable 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) Flexible rules for compliance, including permitting electrical corporations to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years.

(D) Rules that authorize the use of renewable energy credits to satisfy annual procurement targets. At a minimum, the rules shall do all of the following:

(i) Prohibit a renewable energy credit from being counted more than once by any retail seller 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.

(ii) Prohibit the eligibility of any renewable energy credit for the purposes of complying with the portfolio standard unless the seller of the credit is a retail seller, an eligible renewable energy resource, a local publicly owned utility satisfying the requirements of subdivision (e) of Section 399.13, or any other entity procuring power from an eligible renewable energy resource under a long-term electricity purchase contract. ~~No credit shall be eligible for complying with the portfolio standard if it has been sold or transferred more than once separately from any initial transfer of the credit originally conveyed with energy delivered by the eligible renewable energy resource.~~

~~(iii)–~~

(iii) Prohibit the eligibility of any renewable energy credit for the purposes of complying with the portfolio standard if it has been sold or transferred more than once separately from the initial delivery of energy from an eligible renewable energy resource.

(iv) Ensure that any revenues received by an electrical corporation for the sale of renewable energy credits are credited to ratepayers.

~~(iv)–~~

(v) In approving a renewable energy procurement plan, the commission may limit the quantity of renewable energy credits that can be procured unbundled from electricity generation to meet the annual procurement targets.

~~(v)–~~

(vi) Require every electrical corporation demonstrate that all purchased renewable energy credits are certified by the Energy Commission and comply with the requirements of this article, before purchase expenses may be recovered in rates.

~~(vi)–~~

(vii) Ensure that no retail seller shall be obligated to procure renewable energy credits to satisfy annual procurement targets in the event that supplemental energy payments, in combination with

1 the market prices approved by the commission, are insufficient to
2 cover the above-market costs of long-term contracts with eligible
3 renewable energy resources.

4 ~~(vii)–~~

5 (viii) Prohibit an electrical corporation from selling renewable
6 energy credits associated with eligible renewable energy resources
7 included in that electrical corporation's baseline quantity on
8 January 1, 2004.

9 ~~(viii)–~~

10 (ix) Prohibit sales of renewable energy credits by an electrical
11 corporation during any year in which the electrical corporation
12 utilizes flexible compliance rules to permit inadequate
13 procurement pursuant to subparagraph (C).

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

26 (3) Consistent with the goal of procuring the least-cost and
27 best-fit eligible renewable energy resources, the renewable energy
28 procurement plan submitted by an electrical corporation shall
29 include all of the following:

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

34 (B) Provisions for employing available compliance flexibility
35 mechanisms established by the commission.

36 (C) A bid solicitation setting forth the need for renewable
37 generation of each deliverability characteristic, required online
38 dates, and locational preferences, if any.

39 (4) In soliciting and procuring eligible renewable energy
40 resources, each electrical corporation shall offer contracts of no

1 less than 10 years in duration, unless the commission approves of
2 a contract of shorter duration. Any bid solicitation or contract of
3 less than 10 years in duration shall be considered nonconforming.

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

9 (b) The commission shall review and accept, modify, or reject
10 each electrical corporation's renewable procurement plan 90 days
11 prior to the commencement of renewable procurement pursuant to
12 this article by the electrical corporation.

13 (c) The commission shall review the results of a renewable
14 energy resources solicitation submitted for approval by an
15 electrical corporation and accept or reject proposed contracts with
16 eligible renewable energy resources based on consistency with the
17 approved renewable procurement plan. If the commission
18 determines that the bid prices are elevated due to a lack of effective
19 competition amongst the bidders, the commission shall direct the
20 electrical corporation to renegotiate the contracts or conduct a new
21 solicitation.

22 (d) If an electrical corporation fails to comply with a
23 commission order adopting a renewable procurement plan, the
24 commission shall exercise its authority pursuant to Section 2113
25 to require compliance.

26 (e) Upon application by an electrical corporation, the
27 commission may authorize another entity to enter into contracts on
28 behalf of customers of the electrical corporation for deliveries of
29 eligible renewable energy resources to satisfy the annual portfolio
30 standard obligations, subject to similar terms and conditions
31 applicable to an electrical corporation. The commission shall
32 allow the procurement entity to recover reasonable costs through
33 retail rates subject to review and approval.

34 (f) Procurement and administrative costs associated with
35 long-term contracts entered into by an electrical corporation for
36 eligible renewable energy resources pursuant to this article, at or
37 below the market price determined by the commission pursuant to
38 subdivision (c) of Section 399.15, shall be deemed reasonable per
39 se, and shall be recoverable in rates.



(g) For purposes of this article, “procure” means that a utility may acquire the renewable output of electric generation facilities that it owns or for which it has contracted. 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.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Section 25742 or 25743 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives or supplemental energy payments is “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 12. 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, or an equivalent quantity of renewable energy credits, as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to paragraph (2), and Section 399.6, and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover the above-market costs of eligible renewables, and subject to all of the following:

(1) An electrical corporation shall not be required to enter into long-term contracts with eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c) of this section.

(2) The Energy Commission shall provide supplemental energy payments from funds in the New Renewable Resources Account in the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, consistent with this article, for above-market costs. Funds may be provided or awarded by the Energy Commission only to a project that is selected by an electrical corporation under a competitive

1 solicitation that is found by the commission to comply with the
2 California Renewables Portfolio Standard Program under this
3 article and that has entered into a purchase power agreement
4 resulting from that solicitation that is approved by the commission.
5 Indirect costs associated with the purchase of eligible renewable
6 energy resources, such as imbalance energy charges, sale of excess
7 energy, decreased generation from existing resources, or
8 transmission upgrades shall not be eligible for supplemental
9 energy payments, but shall be recoverable by an electrical
10 corporation in rates, as authorized by the commission.

11 (3) For purposes of setting annual procurement targets, the
12 commission shall establish an initial baseline for each electrical
13 corporation based on the actual percentage of retail sales procured
14 from eligible renewable energy resources in 2001, and, to the
15 extent applicable, adjusted going forward pursuant to subdivision
16 (a) of Section 399.12.

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

19 (1) Beginning on January 1, 2003, each retail seller shall,
20 pursuant to subdivision (a), increase its total procurement of
21 eligible renewable energy resources by at least an additional 1
22 percent of retail sales per year so that 20 percent of its retail sales
23 are procured from eligible renewable energy resources no later
24 than December 31, 2010. A retail seller with 20 percent of retail
25 sales procured from eligible renewable energy resources in any
26 year shall not be required to increase its procurement of eligible
27 renewable energy resources in the following year.

28 (2) Only for purposes of establishing these targets, the
29 commission shall include all power sold to retail customers by the
30 Department of Water Resources pursuant to Section 80100 of the
31 Water Code in the calculation of retail sales by an electrical
32 corporation.

33 (3) In the event that a retail seller fails to procure sufficient
34 eligible renewable energy resources in a given year to meet any
35 annual target established pursuant to this subdivision, the retail
36 seller shall procure additional eligible renewable energy resources
37 in subsequent years to compensate for the shortfall if sufficient
38 funds are made available pursuant to paragraph (2), and Section
39 399.6, and Chapter 8.6 (commencing with Section 25740) of



1 Division 15 of the Public Resources Code, to cover the
2 above-market costs of eligible renewables.

3 (4) If supplemental energy payments from the Energy
4 Commission, in combination with the market prices approved by
5 the commission, are insufficient to cover the above-market costs
6 of eligible renewable energy resources, the commission shall
7 allow a retail seller to limit its annual procurement obligation to
8 the quantity of eligible renewable energy resources that can be
9 procured with available supplemental energy payments.

10 (c) The commission shall establish a methodology to determine
11 the market price of electricity for terms corresponding to the
12 length of contracts with renewable generators, in consideration of
13 the following:

14 (1) The long-term market price of electricity for fixed price
15 contracts, determined pursuant to the electrical corporation's
16 general procurement activities as authorized by the commission.

17 (2) The long-term ownership, operating, and fixed-price fuel
18 costs associated with fixed-price electricity from new generating
19 facilities.

20 (3) The value of different products including baseload,
21 peaking, and as-available output.

22 (d) The establishment of a renewables portfolio standard shall
23 not constitute implementation by the commission of the federal
24 Public Utility Regulatory Policies Act of 1978 (Public Law
25 95-617).

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

29 SEC. 13. Section 399.16 of the Public Utilities Code is
30 amended to read:

31 399.16. The Energy Commission may consider an electric
32 generating facility that is located outside the state to be an eligible
33 renewable energy resource if the facility meets the criteria
34 described in Section 399.12 and all of the following requirements:

35 (a) It is located so that it will be connected to the Western
36 Electricity Coordinating Council (WECC) transmission system.

37 (b) It commences initial commercial operation after January 1,
38 2005, supplies electricity under a guaranteed contract with a retail
39 seller, and demonstrates delivery of the contracted amount of
40 electricity to that retail seller.

(c) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the Energy Commission pursuant to subdivision (b) of Section 399.13.

SEC. 14. Section 399.17 is added to the Public Utilities Code, to read:

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

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

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

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

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

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

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article,

provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, and 399.14, 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. 14.5. *Article 9 (commencing with Section 635) is added to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, to read:*

Article 9. Long Term Plans and Procurement Plans

635. *In a long term plan adopted by an electrical corporation or in a procurement plan implemented by a local publicly owned utility, the electrical corporation or local publicly owned utility shall adopt a strategy applicable both to newly constructed or repowered generation owned and procured by the electrical corporation or local publicly owned utility to achieve efficiency in the use of fossil fuels and to address carbon emissions consistent with the loading order approved by the commission, or for a local publicly owned electric utility, a functionally equivalent order by its governing body, the State Energy Resources Conservation and Development Commission, and the California Consumer Power and Conservation Financing Authority.*

SEC. 15. The State Energy Resources Conservation and Development Commission shall, on or before January 1, 2006, report to the Governor and the Legislature with recommendations for how to incentivize each local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code, to implement and enforce a renewables portfolio standard program meeting the requirements of Section 399.15 of the Public Utilities Code, utilizing eligible renewable energy resources, as defined in Section 399.12. The commission may include the report as a component of the 2005 Integrated Energy Policy or the next

1 renewable energy report required pursuant to Section 25758 of the
2 Public Resources Code. The commission shall use existing
3 resources to comply with this section.

4 SEC. 16. No reimbursement is required by this act pursuant
5 to Section 6 of Article XIII B of the California Constitution
6 because the only costs that may be incurred by a local agency or
7 school district will be incurred because this act creates a new crime
8 or infraction, eliminates a crime or infraction, or changes the
9 penalty for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition of a
11 crime within the meaning of Section 6 of Article XIII B of the
12 California Constitution.

