

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 107

Introduced by Senators Simitian and Perata

January 20, 2005

An act to amend Sections 25740, 25741, 25743, and 25744 of, to add and repeal Section 25305.1 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~~ and 399.15 of, to add Section 399.17 to, and to add 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 107, as amended, Simitian. 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 revise and recast that intent language so that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The bill would make conforming changes related to this provision.

(2) The Public Utilities Act imposes various duties and responsibilities on the California 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 retail seller, as defined, 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 develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined. The bill would require that deliveries of electricity from an eligible renewable energy resource under any electricity purchase contract with a retail seller executed before January 1, ~~2006~~ 2003, be tracked and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller. The bill would require that electricity generated pursuant to a prescribed federal act and pursuant to a purchased contract executed on or after January 1, ~~2006~~ 2003, count towards the ~~renewable~~ *renewables* portfolio standard requirements of the retail seller. The bill would provide for the tracking of deliveries under these purchase contracts through a prescribed accounting system. The bill would

require the Energy Commission to certify, and would specify criteria for, the eligibility of electricity delivered to a local publicly owned electric utility by an eligible renewable energy resource, for purposes of compliance with the renewables portfolio standard by a retail seller. The bill would make other technical and conforming changes.

(4) Existing law requires the State Energy Resources Conservation and Development Commission to prepare an integrated energy policy report every 2 years. Existing law requires the report to contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment.

This bill would require the Energy Commission to include in the integrated energy policy report to be adopted November 1, 2007, an assessment of the feasibility of increasing the target for the amount of electricity to be procured from eligible renewable energy resources to 33% by the year 2020, and to recommend how to induce local publicly owned electric utilities to implement and enforce a renewables portfolio standard utilizing eligible renewable energy resources.

(5) 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 annually report the utility's status in implementing a renewables portfolio standard and progress toward attaining the standard to its customers and to report to the Energy Commission the information that the governing board is required to annually report to their customers. These additional reporting requirements would thereby impose a state-mandated local program.

(6) 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 California Renewables Portfolio Standard Program and that the project participant has entered into an electricity purchase agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize certain projects supplying electricity to retail sellers, as defined, to the extent the retail seller is servicing load that is within the distribution area of an electrical corporation and subject to the renewable energy public goods charge, to receive supplemental energy payments under certain circumstances. The bill would prohibit the Energy Commission from awarding supplemental energy payments for the sale or purchase of renewable energy credits or to service load that is not subject to the renewable energy public goods charge. The bill would revise existing criteria for Energy Commission consideration of an out-of-state electrical generation facility as an eligible renewable energy resource.

(7) Existing law requires that 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 make technical and nonsubstantive changes to these provisions.

(8) Existing law requires that 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.

(9) 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 an electricity purchase agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

(10) *The existing Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require that construction (certificate of public convenience and necessity). The act requires that the CPUC consider certain factors in determining whether to issue a certificate of public convenience and necessity. Existing law provides that, if the CPUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the renewables portfolio standard, the CPUC is required to deem the new transmission facilities necessary to the provision of electric service in acting upon an application by an electrical corporation for a certificate of public convenience and necessity.*

This bill would provide that if the CPUC finds that new transmission facilities, including certain facilities that Federal Energy Regulatory Commission precedent would define as generation-tie facilities, due to certain factors, will facilitate achievement of the renewable power goals established in the renewables portfolio standard, the CPUC is required to deem the new transmission facilities necessary to the provision of electric service in acting upon an application by an electrical corporation for a certificate of public convenience and necessity.

(11) This bill would require an electrical corporation or local publicly owned electric 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.

~~(11)–~~

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

~~(12)–~~

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

Certain of the provisions of this bill are a part of the act and an order of the CPUC would be required to implement these provisions. Because a violation of the provisions of the bill that are part of the act 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.

~~(13)–~~

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 25305.1 is added to the Public
- 2 Resources Code, to read:
- 3 25305.1. (a) In addition to the assessments required by
- 4 Section 25305, the public interest energy strategies portion of the
- 5 integrated energy policy report to be adopted November 1, 2007,
- 6 shall include the following additional assessments:

1 (1) A review of the feasibility of increasing the target for
2 electricity to be procured from eligible renewable energy
3 resources, as defined in Section 399.12 of the Public Utilities
4 Code, to 33 percent by the year 2020. The review shall consider
5 and report on all of the following:

6 (A) The deliverability of electricity from eligible renewable
7 energy resources to end users and any needed additions or
8 upgrades to the transmission grid system.

9 (B) The potential impacts upon the rates of electrical
10 corporations and whether or not a renewable energy public goods
11 charge is necessary to fund the above-market costs of electricity
12 generated from eligible renewable energy resources.

13 (C) The progress made by electrical corporations and all other
14 retail sellers, as defined in Section 399.12 of the Public Utilities
15 Code, and local publicly owned electric utilities, as defined in
16 Section 9604 of the Public Utilities Code, toward meeting the
17 goal of procuring from eligible renewable energy resources 20
18 percent of the electricity sold to retail customers per year by
19 December 31, 2010.

20 (2) Recommendations for how to induce each local publicly
21 owned electric utility, as defined in Section 9604 of the Public
22 Utilities Code, to implement and enforce a renewables portfolio
23 standard meeting the requirements of Article 16 (commencing
24 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
25 Public Utilities Code, utilizing eligible renewable energy
26 resources, as defined in Section 399.12 of the Public Utilities
27 Code.

28 (b) The commission shall use existing resources to comply
29 with this section.

30 (c) This section shall remain in effect only until January 1,
31 2008, and as of that date is repealed, unless a later enacted
32 statute, that is enacted before January 1, 2008, deletes or extends
33 that date.

34 SEC. 2. Section 25740 of the Public Resources Code is
35 amended to read:

36 25740. It is the intent of the Legislature in establishing this
37 program, to increase the amount of electricity generated from
38 eligible renewable energy resources per year, so that it equals at
39 least 20 percent of total retail sales of electricity in California per
40 year by December 31, 2010.

SEC. 3. Section 25741 of the Public Resources Code is amended to read:

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

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

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

(2) The facility *satisfies either of the following requirements:*

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

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

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

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

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

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

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

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

(3) For the purposes of this subdivision, “solid waste conversion” means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for

1 the purpose of generating electricity, and that meets all of the
2 following criteria:

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

6 (B) The technology produces no discharges of air
7 contaminants or emissions, including greenhouse gases as
8 defined in Section 42801.1 of the Health and Safety Code.

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

11 (D) The technology produces no hazardous wastes.

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

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

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

21 (H) The facility certifies that any local agency sending solid
22 waste to the facility diverted at least 30 percent of all solid waste
23 it collects through solid waste reduction, recycling, and
24 composting. For purposes of this paragraph “local agency”
25 means any city, county, or special district, or subdivision thereof,
26 which is authorized to provide solid waste handling services.

27 (b) “Renewable energy public goods charge” means that
28 portion of the nonbypassable system benefits charge authorized
29 to be collected and to be transferred to the Renewable Resource
30 Trust Fund pursuant to the Reliable Electric Service Investments
31 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of
32 Part 1 of Division 1 of the Public Utilities Code).

33 (c) “Report” means the report entitled “Investing in
34 Renewable Electricity Generation in California” (June 2001,
35 Publication Number P500-00-022) submitted to the Governor
36 and the Legislature by the commission.

37 (d) ~~(+)~~ “Retail seller” means a “retail seller” as defined in
38 Section 399.12 of the Public Utilities Code.

39 (e) *“Delivered” means the electrical output of an in-state*
40 *renewable electricity generation facility that serves retail*

1 *end-use customers located within the state. Subject to verification*
2 *pursuant to the accounting system established by the commission*
3 *pursuant to subdivision (b) of Section 399.13 of the Public*
4 *Utilities Code, an in-state renewable electricity generation*
5 *facility must meet the following conditions:*

6 *(1) The electricity is either provided to a retail seller at an*
7 *in-state location or, if provided at a location adjacent to the*
8 *state, the electricity subsequently arrives at an in-state location.*

9 *(2) An in-state location is one that is within the control area of*
10 *the Independent System Operator, the Imperial Irrigation*
11 *District, the Sacramento Municipal Utility District, the Turlock*
12 *Irrigation District, the Los Angeles Department of Water and*
13 *Power, or any other control area subsequently established within*
14 *the state.*

15 SEC. 4. Section 25743 of the Public Resources Code is
16 amended to read:

17 25743. (a) Fifty-one and one-half percent of the money
18 collected pursuant to the renewable energy public goods charge
19 shall be used for programs designed to foster the development of
20 new in-state renewable electricity generation facilities, and to
21 secure for the state the environmental, economic, and reliability
22 benefits that operation of those facilities will provide.

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

27 (1) In order to cover the above market costs of eligible
28 renewable energy resources as approved by the Public Utilities
29 Commission and selected by retail sellers to fulfill their
30 obligations under Article 16 (commencing with Section 399.11)
31 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
32 Code, the commission shall award funds in the form of
33 supplemental energy payments, subject to the following criteria:

34 (A) The commission may establish caps on supplemental
35 energy payments. The caps shall be designed to provide for a
36 viable energy market capable of achieving the goals of Article 16
37 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
38 Division 1 of the Public Utilities Code. The commission may
39 waive application of the caps to accommodate a facility if it is
40 demonstrated to the satisfaction of the commission that operation

1 of the facility would provide substantial economic and
2 environmental benefits to end-use customers subject to the
3 renewable energy public goods charge.

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

6 (C) Supplemental energy payments awarded to facilities
7 selected by an electrical corporation pursuant to Article 16
8 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
9 Division 1 of the Public Utilities Code shall be paid for no longer
10 than 10 years, but shall, subject to the payment caps in
11 subparagraph (A), be equal to the cumulative above-market costs
12 relative to the applicable market price referent at the time of
13 initial contracting, over the duration of the contract with the
14 electrical corporation.

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

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

24 (F) A project selected by an electrical corporation may receive
25 supplemental energy payments only if it results from a
26 competitive solicitation that is found by the Public Utilities
27 Commission to comply with the California Renewables Portfolio
28 Standard Program under Article 16 (commencing with Section
29 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public
30 Utilities Code, and the project has entered into an electricity
31 purchase agreement resulting from that solicitation, that is
32 approved by the Public Utilities Commission. *An in-state*
33 *renewable electricity generation facility owned by an electrical*
34 *corporation shall be eligible to receive supplemental energy*
35 *payments if selected by an electrical corporation pursuant to a*
36 *competitive solicitation process approved by the Public Utilities*
37 *Commission and operated on a cost-of-service basis.* A project
38 selected for an electricity purchase agreement by another retail
39 seller may receive supplemental energy payments only if the
40 retail seller demonstrates to the Public Utilities Commission that

1 the selection of the project is consistent with the results of a
2 least-cost and best-fit process, and the supplemental energy
3 payments are reasonable in comparison to those paid under
4 similar contracts with other retail sellers. The commission may
5 not award supplemental energy payments to service load that is
6 not subject to the renewable energy public goods charge.

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

12 ~~(A) It is or will be connected to the transmission network~~
13 ~~within the Western Electricity Coordinating Council (WECC)~~
14 ~~service territory.~~

15 ~~(B) It commences initial commercial operation after January 1,~~
16 ~~2006.~~

17 ~~(C) It has a contract with a retail seller or another entity to~~
18 ~~supply electricity to end-use customers subject to the renewable~~
19 ~~energy public goods charge for a period of time at least equal to~~
20 ~~the duration of incentive payments provided pursuant to this~~
21 ~~subdivision.~~

22 ~~(D) It demonstrates delivery of the electricity under contract to~~
23 ~~the retail seller serving end-use customers subject to the~~
24 ~~renewable energy public goods charge.~~

25 ~~(E) It will not cause or contribute to any violation of a~~
26 ~~California environmental quality standard or requirement.~~

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

30 ~~(G) It meets any other condition established by the~~
31 ~~commission.~~

32 ~~(3)–~~

33 (2) Facilities that are eligible to receive funding pursuant to
34 this section shall be registered in accordance with criteria
35 developed by the commission and those facilities may not receive
36 payments for any electricity produced that has any of the
37 following characteristics:

38 (A) Is sold under an existing long-term contract with an
39 existing in-state electrical corporation if the contract includes
40 fixed energy or capacity payments, except for that electricity that

1 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
2 Section 399.6 of the Public Utilities Code.

3 (B) Is used onsite or is sold to customers in a manner that
4 excludes competition transition charge payments, or is otherwise
5 excluded from competition transition charge payments.

6 ~~(C) Is produced by a facility that is owned by an electrical~~
7 ~~corporation or a local publicly owned electric utility as defined in~~
8 ~~Section 9604 of the Public Utilities Code.~~

9 ~~(D)~~

10 (C) Is a hydroelectric generation project that will require a
11 new or increased appropriation of water under Part 2
12 (commencing with Section 1200) of Division 2 of the Water
13 Code.

14 ~~(E)~~

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

24 ~~(4)~~

25 (3) Eligibility to compete for funds or to receive funds shall
26 be contingent upon having to sell the electricity generated by the
27 renewable electricity generation facility to customers subject to
28 the renewable energy public goods charge.

29 ~~(5)~~

30 (4) 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)~~

37 (5) In awarding funding, the commission may provide
38 preference to projects that provide tangible demonstrable benefits
39 to communities with a plurality of minority or low-income
40 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,
13 due 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 facility
22 to the extent that they report to the commission the types and
23 quantities of biomass fuels used and certify to the satisfaction of
24 the commission that fuel utilization is limited to the following:

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

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

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

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

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

39 (C) Do not transport or cause the transportation of species
40 known to harbor insect or disease nests outside zones of

1 infestation or current quarantine zones, as identified by the
2 Department of Food and Agriculture or the Department of
3 Forestry and Fire Protection, unless approved by the Department
4 of Food and Agriculture and the Department of Forestry and Fire
5 Protection.

6 SEC. 5. Section 25744 of the Public Resources Code is
7 amended to read:

8 25744. (a) Seventeen and one-half percent of the money
9 collected pursuant to the renewable energy public goods charge
10 shall be used for a multiyear, consumer-based program to foster
11 the development of emerging renewable technologies in
12 distributed generation applications.

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

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

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

34 (3) Eligible distributed emerging technologies are
35 photovoltaic, solar thermal electric, fuel cell technologies that
36 utilize renewable fuels, and wind turbines of not more than 50
37 kilowatts rated electrical generating capacity per customer site,
38 and other distributed renewable emerging technologies that meet
39 the emerging technology eligibility criteria established by the
40 commission. Eligible electricity generating systems are intended

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

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

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

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

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

39 (c) Notwithstanding Section 399.6 of the Public Utilities Code,
40 the commission may expend, until December 31, 2008, up to

1 sixty million dollars (\$60,000,000) of the funding allocated to the
2 Renewable Resources Trust Fund for the program established in
3 this section, subject to the repayment requirements of subdivision
4 (f) of Section 25751.

5 SEC. 6. Section 25745 of the Public Resources Code is
6 repealed.

7 SEC. 7. Section 25749 of the Public Resources Code is
8 repealed.

9 SEC. 8. Section 387 of the Public Utilities Code is amended
10 to read:

11 387. (a) Each governing body of a local publicly owned
12 electric utility, as defined in Section 9604, shall be responsible
13 for implementing and enforcing a renewables portfolio standard
14 that recognizes the intent of the Legislature to encourage
15 renewable resources, while taking into consideration the effect of
16 the standard on rates, reliability, and financial resources and the
17 goal of environmental improvement.

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

22 (1) Expenditures of public goods funds collected pursuant to
23 Section 385 for *eligible* renewable energy resource development.
24 Reports shall contain a description of programs, expenditures,
25 and expected or actual results.

26 (2) The resource mix used to serve its customers by fuel type.
27 Reports shall contain the contribution of each type of *eligible*
28 renewable energy resource with separate categories for those
29 fuels considered eligible renewable energy resources as defined
30 in Section 399.12.

31 (3) The utility's status in implementing a renewables portfolio
32 standard pursuant to subdivision (a) and the utility's progress
33 toward attaining the standard following implementation.

34 SEC. 9. Section 399.11 of the Public Utilities Code is
35 amended to read:

36 399.11. The Legislature finds and declares all of the
37 following:

38 (a) In order to attain a target of generating 20 percent of total
39 retail sales of electricity in California from *eligible* renewable
40 energy resources by December 31, 2010, and for the purposes of

1 increasing the diversity, reliability, public health and
2 environmental benefits of the energy mix, it is the intent of the
3 Legislature that the commission and the State Energy Resources
4 Conservation and Development Commission implement the
5 California Renewables Portfolio Standard Program described in
6 this article.

7 (b) Increasing California's reliance on *eligible* renewable
8 energy resources may promote stable electricity prices, protect
9 public health, improve environmental quality, stimulate
10 sustainable economic development, create new employment
11 opportunities, and reduce reliance on imported fuels.

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

18 (d) The California Renewables Portfolio Standard Program is
19 intended to complement the Renewable Energy Resources
20 Program administered by the State Energy Resources
21 Conservation and Development Commission and established
22 pursuant to Chapter 8.6 (commencing with Section 25740) of
23 Division 15 of the Public Resources Code.

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

27 SEC. 10. Section 399.12 of the Public Utilities Code is
28 amended to read:

29 399.12. For purposes of this article, the following terms have
30 the following meanings:

31 (a) "*Deliver,*" "*delivery,*" "*delivered,*" and "*deliveries,*"
32 *when used in reference to electricity, means the electrical output*
33 *of an in-state renewable electricity generation facility that*
34 *satisfies the following conditions:*

35 (1) *The electricity is either provided to a retail seller at an*
36 *in-state substation or, if provided to a retail seller at a location*
37 *adjacent to the state that directly connects to any in-state*
38 *substation, the electricity subsequently arrives at an in-state*
39 *substation.*

1 (2) *An in-state substation is located within the control area of*
2 *the Independent System Operator, the Imperial Irrigation*
3 *District, the Sacramento Municipal Utility District, or the Los*
4 *Angeles Department of Water and Power.*

5 *Fulfillment of the conditions in paragraphs (1) and (2) shall be*
6 *verified by the accounting system established by the commission*
7 *pursuant to subdivision (b) of Section 399.13.*

8 (b) “Eligible renewable energy resource” means an electric
9 generating facility that meets the definition of “in-state
10 renewable electricity generation facility” in Section 25741 of the
11 Public Resources Code, subject to the following limitations:

12 (1) A geothermal generation facility originally commencing
13 operation prior to September 26, 1996, shall be eligible for
14 purposes of adjusting a retail seller’s baseline quantity of eligible
15 renewable energy resources except for electricity certified as
16 incremental geothermal production by the Energy Commission,
17 provided that the incremental electricity was not sold to an
18 electrical corporation under contract entered into prior to
19 September 26, 1996. For each facility seeking certification, the
20 Energy Commission shall determine historical production trends
21 and establish criteria for measuring incremental geothermal
22 production that recognizes the declining geothermal output of
23 existing steamfields and the contribution of capital investments
24 in the facility or wellfield. This paragraph shall remain operative
25 only until January 1, 2010.

26 (2) (A) An existing small hydroelectric generation facility of
27 30 megawatts or less shall be eligible only if a retail seller owned
28 or procured the electricity from the facility as of December 31,
29 2003, and that electricity shall be eligible only for purposes of
30 ~~establishing~~ *adjusting* the retail seller’s baseline quantity of
31 eligible renewable energy resources. A new hydroelectric facility
32 is not an eligible renewable energy resource if it will require a
33 new or increased appropriation or diversion of water under Part 2
34 (commencing with Section 1200) of Division 2 of the Water
35 Code.

36 (B) Notwithstanding subparagraph (A), an existing conduit
37 hydroelectric facility, as defined by Section 823a of Title 16 of
38 the United States Code, of 30 megawatts or less, shall be eligible
39 for the purposes of ~~satisfying~~ *adjusting* a retail seller’s baseline
40 quantity of eligible renewable energy resources. A new conduit

1 hydroelectric facility, as defined by Section 823a of Title 16 of
2 the United States Code, of 30 megawatts or less, shall be an
3 eligible renewable energy resource so long as it does not require
4 a new or increased appropriation or diversion of water under Part
5 2 (commencing with Section 1200) of Division 2 of the Water
6 Code.

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

14 (4) Notwithstanding paragraph (1), any geothermal electricity
15 included in the baseline of a retail seller from a facility under a
16 long-term contract executed before January 1, 2004, shall be
17 eligible to satisfy the annual procurement targets of any retail
18 seller upon the expiration of that contract. This paragraph shall
19 become inoperative on January 1, 2010, unless a later enacted
20 statute deletes or extends that date.

21 ~~(b)~~

22 (c) "Energy Commission" means the State Energy Resources
23 Conservation and Development Commission.

24 (d) *"Procure" means that a retail seller receives delivered*
25 *electricity generated by an eligible renewable energy resource*
26 *that it owns or for which it has entered into an electricity*
27 *purchase contract. Nothing in this article is intended to imply*
28 *that the purchase of electricity from third parties in a wholesale*
29 *transaction is the preferred method of fulfilling a retail seller's*
30 *obligation to comply with this article.*

31 ~~(e)~~

32 (e) "Retail seller" means an entity engaged in the retail sale of
33 electricity to end-use customers located within the state ~~and~~
34 ~~subject to the renewable energy public goods charge, as defined~~
35 ~~in Section 25741 of the Public Resources Code, including any of~~
36 ~~the following:~~

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

38 (2) A community choice aggregator. The commission shall
39 institute a rulemaking to determine the manner in which a
40 community choice aggregator will participate in the renewables

1 portfolio standard program subject to the same terms and
2 conditions applicable to an electrical corporation.

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

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

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

15 (C) The commission shall institute a rulemaking to determine
16 the manner in which electric service providers will participate in
17 the renewables portfolio standard program. The electric service
18 provider shall be subject to the same terms and conditions
19 applicable to an electrical corporation pursuant to this article.
20 Nothing in this paragraph shall impair a contract entered into
21 between an electric service provider and a retail customer prior to
22 the suspension of direct access by the commission pursuant to
23 Section 80110 of the Water Code.

24 (4) “Retail seller” does not include any of the following:

25 (A) A corporation or person employing cogeneration
26 technology or producing electricity consistent with subdivision
27 (b) of Section 218.

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

31 (C) A local publicly owned electric utility as defined in
32 Section 9604.

33 ~~(d)~~

34 (f) “Renewables portfolio standard” means the specified
35 percentage of electricity generated by eligible renewable energy
36 resources that a retail seller is required to procure pursuant to this
37 article.

38 ~~(e)~~

39 (g) (1) “Renewable energy credit” means a certificate of
40 proof, issued through the accounting system established by the

1 Energy Commission pursuant to Section 399.13, that one unit of
2 electricity was generated by an eligible renewable energy
3 resource.

4 (2) “Renewable energy credit” includes all renewable and
5 environmental attributes associated with the production of
6 electricity from the eligible renewable energy resource, except
7 for an emissions reduction credit issued pursuant to Section
8 40709 of the Health and Safety Code.

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

13 (4) A renewable energy credit shall not be eligible to satisfy
14 annual procurement targets established pursuant to this article,
15 unless it is bundled with electricity delivered to a retail seller, the
16 Independent System Operator, or to a local publicly owned
17 electric utility in compliance with subdivision (e) of Section
18 399.13.

19 SEC. 11. Section 399.13 of the Public Utilities Code is
20 amended to read:

21 399.13. The Energy Commission shall do all of the following:

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

25 (b) Design and implement an accounting system to verify
26 compliance with the renewables portfolio standard by retail
27 sellers, to ensure that electricity generated by an eligible
28 renewable energy resource is counted only once for the purpose
29 of meeting the renewables portfolio standard of this state or any
30 other state, to certify renewable energy credits produced by
31 eligible renewable energy resources, and to verify retail product
32 claims in this state or any other state. In establishing the
33 guidelines governing this accounting system, the Energy
34 Commission shall collect data from electricity market
35 participants that it deems necessary to verify compliance of retail
36 sellers, in accordance with the requirements of this article and the
37 California Public Records Act (Chapter 3.5 (commencing with
38 Section 6250) of Division 7 of Title 1 of the Government Code).
39 In seeking data from electrical corporations, the Energy
40 Commission shall request data from the commission. The

1 commission shall collect data from electrical corporations and
2 remit the data to the Energy Commission within 90 days of the
3 request.

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

12 (d) Allocate and award supplemental energy payments
13 pursuant to Chapter 8.6 (commencing with Section 25740) of
14 Division 15 of the Public Resources Code, to eligible renewable
15 energy resources to cover above-market costs of renewable
16 energy. A project selected by an electrical corporation may
17 receive supplemental energy payments only if it results from a
18 competitive solicitation that is found by the commission to
19 comply with the California Renewables Portfolio Standard
20 Program under this article and the project has entered into an
21 electricity purchase agreement resulting from that solicitation
22 that is approved by the commission. A project selected for an
23 electricity purchase agreement by another retail seller may
24 receive supplemental energy payments only if the retail seller
25 demonstrates to the commission that the selection of the project
26 is consistent with the results of a least-cost and best-fit process,
27 and that the supplemental energy payments are reasonable in
28 comparison to those paid under similar contracts with other retail
29 sellers.

30 (e) Certify, for purposes of compliance with the renewables
31 portfolio standard by a retail seller, the eligibility of deliveries of
32 electricity by an eligible renewable energy resource to a local
33 publicly owned electric utility if the Energy Commission
34 determines that the following conditions have been satisfied:

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

37 (2) The local publicly owned electric utility has established
38 annual procurement targets comparable to those applicable to an
39 electrical corporation and is procuring sufficient eligible
40 renewable energy resources to satisfy the targets.

(f) Deliveries of electricity from an eligible renewable energy resource under an electricity purchase contract with a retail seller executed before January 1, ~~2006~~ 2003, shall be tracked through the accounting system described in subdivision (b) and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(g) Deliveries of electricity from an eligible renewable energy resource under an electricity purchase contract with a retail seller executed after January 1, ~~2006~~ 2003, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.), shall be tracked through the accounting system described in subdivision (b) and count towards the renewables portfolio standard obligations of the purchasing retail seller.

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

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

(2) The commission shall adopt, by rulemaking 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 electricity generated by eligible renewable energy resources, 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

1 until the commission has established market prices pursuant to
2 subdivision (c) of Section 399.15.

3 (B) A process that provides criteria for the rank ordering and
4 selection of least-cost and best-fit eligible renewable energy
5 resources to comply with the annual California Renewables
6 Portfolio Standard Program obligations on a total cost basis. This
7 process shall consider estimates of indirect costs associated with
8 needed transmission investments and ongoing utility expenses
9 resulting from integrating and operating eligible renewable
10 energy resources.

11 (C) Flexible rules for compliance, including rules permitting
12 electrical corporations to apply excess procurement in one year to
13 subsequent years or inadequate procurement in one year to no
14 more than the following three years.

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

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

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

37 (B) Provisions for employing available compliance flexibility
38 mechanisms established by the commission.

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

4 (4) In soliciting and procuring eligible renewable energy
5 resources, each electrical corporation shall offer contracts of no
6 less than 10 years in duration, unless the commission approves of
7 a contract of shorter duration. Any bid solicitation or contract of
8 less than 10 years in duration shall be considered nonconforming.

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

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

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

27 (d) If an electrical corporation fails to comply with a
28 commission order adopting a renewable energy procurement
29 plan, the commission shall exercise its authority pursuant to
30 Section 2113 to require compliance. The commission shall
31 enforce comparable penalties on any other retail seller that fails
32 to meet annual procurement targets established pursuant to
33 Section 399.15.

34 (e) Upon application by a retail seller, the commission may
35 authorize a procurement entity to enter into contracts on behalf of
36 customers of the retail seller for deliveries of eligible renewable
37 energy resources to satisfy the annual renewables portfolio
38 standard obligations, subject to similar terms and conditions
39 applicable to a retail seller. If the rates of the procurement entity
40 are regulated by the commission, the commission shall allow the

procurement entity to recover reasonable costs through retail rates subject to review and approval.

(f) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation 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.

~~(g) For purposes of this article, “procure” means that a retail seller may acquire the electricity generated by an eligible renewable energy resource 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)~~

(g) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Sections 25742 and 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. 13. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to 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 renewable energy resources.

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

(1) Beginning on January 1, 2003, each retail seller shall, pursuant to subdivision (a), increase its total procurement of

1 eligible renewable energy resources by at least an additional 1
2 percent of retail sales per year so that 20 percent of its retail sales
3 are procured from eligible renewable energy resources no later
4 than December 31, 2010. *Achievement of these targets is subject*
5 *to the rules for flexible compliance adopted pursuant to*
6 *subparagraph (C) of paragraph (1) of subdivision (a) of Section*
7 *399.14.*

8 (2) For purposes of setting annual procurement targets, the
9 commission shall establish an initial baseline for each ~~electrical~~
10 ~~corporation retail seller~~ based on the actual percentage of retail
11 sales procured from eligible renewable energy resources in 2001,
12 and, to the extent applicable, adjusted going forward pursuant to
13 subdivision (a) of Section 399.12. ~~The commission shall~~
14 ~~establish baselines and set annual procurement targets for other~~
15 ~~retail sellers that ensure that the departure of customer loads from~~
16 ~~bundled service of an electrical corporation does not cause any~~
17 ~~reduction in the quantity of eligible renewable energy resources~~
18 ~~that would have otherwise been procured by the electrical~~
19 ~~corporation to serve those customers.~~

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

25 (4) In the event that a retail seller fails to procure sufficient
26 eligible renewable energy resources in a given year to meet any
27 annual target established pursuant to this subdivision, the retail
28 seller shall procure additional eligible renewable energy
29 resources in subsequent years to compensate for the shortfall if
30 sufficient funds are made available pursuant to Section 399.6 and
31 Chapter 8.6 (commencing with Section 25740) of Division 15 of
32 the Public Resources Code, to cover any above-market costs of
33 eligible renewable energy resources.

34 (5) If supplemental energy payments from the Energy
35 Commission, in combination with the market prices approved by
36 the commission, are insufficient to cover any above-market costs
37 of eligible renewable energy resources, the commission shall
38 allow a retail seller to limit its annual procurement obligation to
39 the quantity of eligible renewable energy resources that can be
40 procured with available supplemental energy payments. A retail

1 seller shall not be required to enter into long-term contracts with
2 operators of eligible renewable energy resources that exceed the
3 market prices established pursuant to subdivision (c).

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

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

11 (2) The long-term ownership, operating, and fixed-price fuel
12 costs associated with fixed-price electricity from new generating
13 facilities.

14 (3) The value of different products including baseload,
15 peaking, and as-available electricity.

16 (d) The Energy Commission shall provide supplemental
17 energy payments from funds in the New Renewable Resources
18 Account of the Renewable Resource Trust Fund to eligible
19 renewable energy resources pursuant to Chapter 8.6
20 (commencing with Section 25740) of Division 15 of the Public
21 Resources Code, consistent with this article, for any
22 above-market costs. Indirect costs associated with the purchase
23 of eligible renewable energy resources by an electrical
24 corporation, including imbalance energy charges, sale of excess
25 energy, decreased generation from existing resources, or
26 transmission upgrades, shall not be eligible for supplemental
27 energy payments, but are recoverable in rates, as authorized by
28 the commission. The Energy Commission shall not award
29 supplemental energy payments to service load that is not subject
30 to the renewable energy public goods charge.

31 (e) The establishment of a renewables portfolio standard shall
32 not constitute implementation by the commission of the federal
33 Public Utility Regulatory Policies Act of 1978 (Public Law
34 95-617).

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

38 ~~SEC. 14. Section 399.16 of the Public Utilities Code is~~
39 ~~amended to read:~~

~~399.16. The Energy Commission may consider an electric generating facility that is not an “in-state renewable electricity generation facility,” as defined in Section 25741 of the Public Resources Code, to be an eligible renewable energy resource if the facility meets all other criteria described in Section 399.12 and all of the following requirements:~~

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

~~(b) It commences initial commercial operation after January 1, 2006, supplies electricity under a guaranteed contract with a retail seller in this state, and demonstrates delivery of the contracted amount of 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. 15.—~~

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 transmission network within the Western Electricity Coordinating Council (WECC) service territory, 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. 15. Section 399.25 of the Public Utilities Code is amended to read:

399.25. (a) Notwithstanding any other provision in Sections 1001 to 1013, inclusive, an application of an electrical corporation for a certificate authorizing the construction of new transmission facilities, including high-voltage, bulk-transfer transmission facilities that interconnect with areas of large concentrations of potential eligible renewable energy resources that Federal Energy Regulatory Commission precedent would define as generation-tie facilities, shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 1003 if the commission finds that the new transmission facility, due to the location, magnitude,

1 and expected cost of eligible renewable energy resource
2 development, will facilitate achievement of the renewable power
3 goals established in this article.

4 (b) With respect to a transmission facility described in
5 subdivision (a), the commission shall take all feasible actions to
6 ensure that the transmission rates established by the Federal
7 Energy Regulatory Commission are fully reflected in any retail
8 rates established by the commission. These actions shall include,
9 but are not limited to:

10 (1) Making findings, where supported by an evidentiary
11 record, that those transmission facilities provide benefit to the
12 transmission network and are necessary to facilitate the
13 achievement of the renewables portfolio standard established in
14 Article 16 (commencing with Section 399.11).

15 (2) Directing the utility to which the generator will be
16 interconnected, where the direction is not preempted by federal
17 law, to seek the recovery through general transmission rates of
18 the costs associated with the transmission facilities.

19 (3) Asserting the positions described in paragraphs (1) and (2)
20 to the Federal Energy Regulatory Commission in appropriate
21 proceedings.

22 (4) Allowing recovery in retail rates of any increase in
23 transmission costs incurred by an electrical corporation
24 resulting from the construction of the transmission facilities that
25 are not approved for recovery in transmission rates by the
26 Federal Energy Regulatory Commission after the commission
27 determines that the costs were prudently incurred in accordance
28 with subdivision (a) of Section 454.

29 SEC. 16. Article 9 (commencing with Section 635) is added
30 to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code,
31 to read:

32
33 Article 9. Long-Term Plans and Procurement Plans
34

35 635. In a long-term plan adopted by an electrical corporation
36 or in a procurement plan implemented by a local publicly owned
37 electric utility, the electrical corporation or local publicly owned
38 electric utility shall adopt a strategy applicable both to newly
39 constructed or repowered generation owned and procured by the
40 electrical corporation or local publicly owned electric utility to

1 achieve efficiency in the use of fossil fuels and to address carbon
2 emissions.

3 SEC. 17. No reimbursement is required by this act pursuant
4 to Section 6 of Article XIII B of the California Constitution for
5 certain costs that may be incurred by a local agency or school
6 district because, in that regard, this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.

12 However, if the Commission on State Mandates determines
13 that this act contains other costs mandated by the state,
14 reimbursement to local agencies and school districts for those
15 costs shall be made pursuant to Part 7 (commencing with Section
16 17500) of Division 4 of Title 2 of the Government Code.