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SENATE BILL

No. 107

Introduced by Senators Simitian and Perata

(Principal coauthor: Assembly Member Levine)

(~~Coauthor: Assembly Member Blakeslee~~ *Coauthors: Assembly
Members Blakeslee and Cohn*)

January 20, 2005

An act to amend Sections 25740, 25741, ~~25743, and 25744~~ and 25743 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, and 399.15 of, to add Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of, and to repeal and add Section 399.16 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 specify that facilities located

out of state shall not be eligible for supplemental energy payments unless certain requirements are met. The bill would require that deliveries of electricity from an eligible renewable energy resource under any electricity purchase agreement with a retail seller executed before January 1, 2002, 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 purchase contract executed on or after January 1, 2002, count towards the 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 make other technical and conforming changes.

Existing law provides that if supplemental energy payments from the Energy Commission, in combination with the market prices approved by the CPUC, are insufficient to cover any above-market costs of eligible renewable energy resources, the CPUC is required to allow a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

This bill would require the CPUC to adopt flexible rules allowing a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be delivered by existing transmission if the CPUC finds that the retail seller has undertaken all reasonable efforts to utilize flexible delivery points and has undertaken all reasonable efforts to ensure the availability of any needed transmission capacity.

(4) The Public Utilities Act permits the Energy Commission to consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets specific criteria.

This bill would delete that provision within the act and would amend the definition of an “in-state renewable electricity generation facility” within related provisions prescribing duties of the Energy Commission to encompass certain facilities located outside the state.

(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 incorporate the modified definition of an “in-state renewable electricity generation facility.”

~~(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)–~~

(7) Existing law requires that 10% of the money collected under the renewable energy public goods charge be used for 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)–~~

(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 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)–~~

(9) 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)–~~

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

(11) *This bill would require the CPUC, in consultation with the Energy Commission, to review the impact of allowing supplemental energy payments to be applied toward contracts for the procurement of eligible renewable energy resources that are of a duration of less than 10 years, and, by June 30, 2007, to report to the Legislature with the results of the review, including certain matters.*

(12) 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) 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 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 electricity generated from
5 eligible renewable energy resources per year, so that it equals at
6 least 20 percent of total retail sales of electricity in California per
7 year by December 31, 2010.
8 SEC. 2. Section 25741 of the Public Resources Code is
9 amended to read:
10 25741. As used in this chapter, the following terms have the
11 following meaning:

1 (a) “Delivered” and “delivery” mean the electricity output of
2 an in-state renewable ~~electric~~ *electricity* generation facility that is
3 used to serve end-use retail customers located within the state.
4 Subject to verification by the accounting system established by
5 the commission pursuant to subdivision (b) of Section 399.13 of
6 the Public Utilities Code, electricity shall be deemed delivered if
7 it is either provided at a location within the state, or the
8 electricity is scheduled and settled for delivery within the state.
9 Subject to criteria adopted by the commission, electricity
10 generated by an eligible renewable energy resource that generates
11 electricity on an intermittent basis may be considered “delivered”
12 even if the scheduling and settlement occurs at a time subsequent
13 to generation.

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

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

22 (2) The facility satisfies one of the following requirements:

23 (A) The facility is located in the state or near the border of the
24 state with the first point of connection to the transmission
25 network within this state and electricity produced by the facility
26 is delivered to an in-state location.

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

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

33 (ii) It commences initial commercial operation after January 1,
34 2005.

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

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

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

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

8 (C) The facility meets the requirements of clauses (i), (iii),
9 (iv), (v), and (vi) in subparagraph (B), but does not meet the
10 requirements of clause (ii) because it commences initial
11 operation prior to January 1, 2005, if the facility satisfies either
12 of the following requirements:

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

15 (ii) The facility has been part of the existing baseline of
16 eligible renewable energy resources of a retail seller established
17 pursuant to paragraph (2) of subdivision (b) of Section 399.15 of
18 the Public Utilities Code.

19 (3) For the purposes of this subdivision, “solid waste
20 conversion” means a technology that uses a noncombustion
21 thermal process to convert solid waste to a clean-burning fuel for
22 the purpose of generating electricity, and that meets all of the
23 following criteria:

24 (A) The technology does not use air or oxygen in the
25 conversion process, except ambient air to maintain temperature
26 control.

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

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

32 (D) The technology produces no hazardous wastes.

33 (E) To the maximum extent feasible, the technology removes
34 all recyclable materials and marketable green waste compostable
35 materials from the solid waste stream prior to the conversion
36 process and the owner or operator of the facility certifies that
37 those materials will be recycled or composted.

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

1 (G) The technology meets any other conditions established by
2 the commission.

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

9 (c) “Procurement entity” means any person or corporation
10 ~~authorized by the Public Utilities Commission to enter into~~
11 ~~agreements on behalf of customers of a retail seller for deliveries~~
12 ~~of eligible renewable energy resources pursuant to subdivision~~
13 ~~(e) that enters into an agreement with a retail seller to procure~~
14 ~~eligible renewable energy resources pursuant to subdivision (f)~~
15 of Section 399.14 of the Public Utilities Code.

16 (d) “Renewable energy public goods charge” means that
17 portion of the nonbypassable system benefits charge authorized
18 to be collected and to be transferred to the Renewable Resource
19 Trust Fund pursuant to the Reliable Electric Service Investments
20 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of
21 Part 1 of Division 1 of the Public Utilities Code).

22 (e) “Report” means the report entitled “Investing in
23 Renewable Electricity Generation in California” (June 2001,
24 Publication Number P500-00-022) submitted to the Governor
25 and the Legislature by the commission.

26 (f) “Retail seller” means a “retail seller” as defined in Section
27 399.12 of the Public Utilities Code.

28 SEC. 3. Section 25743 of the Public Resources Code is
29 amended to read:

30 25743. (a) Fifty-one and one-half percent of the money
31 collected pursuant to the renewable energy public goods charge
32 shall be used for programs designed to foster the development of
33 new in-state renewable electricity generation facilities, and to
34 secure for the state the environmental, economic, and reliability
35 benefits that operation of those facilities will provide.

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

(1) In order to cover the above market costs of eligible renewable energy resources as approved by the Public Utilities Commission and selected by retail sellers to fulfill their obligations under Article 16 (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 Division 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 renewable energy public goods charge.

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

(C) Supplemental energy payments awarded to facilities selected by a retail seller or procurement entity 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, but shall, subject to the payment caps in subparagraph (A), be equal to the cumulative above-market costs relative to the applicable market price referent at the time of initial contracting, over the duration of the contract with the retail seller or procurement entity.

(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 selected by an electrical corporation may receive supplemental energy payments only if it results from 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 the project has entered into an electricity purchase agreement resulting from that solicitation, that is approved by the Public Utilities Commission. A project selected for an electricity purchase agreement by another retail seller or procurement entity may receive supplemental energy payments only if the Public Utilities Commission determines that the selection of the project is consistent with the results of a least-cost and best-fit process, and the supplemental energy payments are reasonable in comparison to those paid under similar contracts with other retail sellers. The commission may not award supplemental energy payments to service load that is not subject to the renewable energy public goods charge.

(G) (i) Supplemental energy payments shall not be awarded for any purchases of renewable energy ~~credits, or for electricity purchase agreements, of less than 10 years in duration. The credits.~~

(ii) Supplemental energy payments shall not be awarded for electricity purchase agreements that have a duration of less than 10 years. The ineligibility of agreements of less than 10 years duration for supplemental energy payments does not constitute an insufficiency in supplemental energy payments pursuant to paragraph (4) or (5) of subdivision (b) of Section 399.15.

(2) A facility that is located outside of California shall not be eligible for funding under this section unless it satisfies the requirements of this subdivision and the criteria of subparagraph (B) of paragraph (2) of subdivision (b) of Section 25741.

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

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

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

4 (C) Is a hydroelectric generation project that will require a
5 new or increased appropriation of water under Part 2
6 (commencing with Section 1200) of Division 2 of the Water
7 Code, or any other provision authorizing an appropriation of
8 water.

9 (D) Is a solid waste conversion facility, unless the facility
10 meets the criteria established in paragraph (3) of subdivision (b)
11 of Section 25741 and the facility certifies that any local agency
12 sending solid waste to the facility is in compliance with Division
13 30 (commencing with Section 40000), has reduced, recycled, or
14 composted solid waste to the maximum extent feasible, and shall
15 have been found by the California Integrated Waste Management
16 Board to have diverted at least 30 percent of all solid waste
17 through source reduction, recycling, and composting.

18 (4) Eligibility to compete for funds or to receive funds shall be
19 contingent upon having to sell the electricity generated by the
20 renewable electricity generation facility to customers subject to
21 the renewable energy public goods charge.

22 (5) The commission may require applicants competing for
23 funding to post a forfeitable bid bond or other financial guaranty
24 as an assurance of the applicant's intent to move forward
25 expeditiously with the project proposed. The amount of any bid
26 bond or financial guaranty may not exceed 10 percent of the total
27 amount of the funding requested by the applicant.

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

32 (c) Repowered existing facilities shall be eligible for funding
33 under this subdivision if the capital investment to repower the
34 existing facility equals at least 80 percent of the value of the
35 repowered facility.

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

39 (e) Production incentives awarded under this subdivision prior
40 to January 1, 2002, shall commence on the date that a project

1 begins electricity production, provided that the project was
2 operational prior to January 1, 2002, unless the commission finds
3 that the project will not be operational prior to January 1, 2002,
4 due to circumstances beyond the control of the developer. Upon
5 making a finding that the project will not be operational due to
6 circumstances beyond the control of the developer, the
7 commission shall pay production incentives over a five-year
8 period, commencing on the date of operation, provided that the
9 date that a project begins electricity production may not extend
10 beyond January 1, 2007.

11 (f) Facilities generating electricity from biomass energy shall
12 be considered an in-state renewable electricity generation facility
13 to the extent that they report to the commission the types and
14 quantities of biomass fuels used and certify to the satisfaction of
15 the commission that fuel utilization is limited to the following:

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

17 (2) Solid waste materials such as waste pallets, crates,
18 dunnage, manufacturing, and construction wood wastes,
19 landscape or right-of-way tree trimmings, mill residues that are
20 directly the result of the milling of lumber, and rangeland
21 maintenance residues.

22 (3) Wood and wood wastes that meet all of the following
23 requirements:

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

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

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

37 ~~SEC. 4. Section 25744 of the Public Resources Code is~~
38 ~~amended to read:~~

39 ~~25744. (a) Seventeen and one-half percent of the money~~
40 ~~collected pursuant to the renewable energy public goods charge~~

1 shall be used for a multiyear, consumer-based program to foster
2 the development of emerging renewable technologies in
3 distributed generation applications.

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

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

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

25 (3) Eligible distributed emerging technologies are
26 photovoltaic, solar thermal electric, fuel cell technologies that
27 utilize renewable fuels, and wind turbines of not more than 50
28 kilowatts rated electrical generating capacity per customer site,
29 and other distributed renewable emerging technologies that meet
30 the emerging technology eligibility criteria established by the
31 commission. Eligible electricity generating systems are intended
32 primarily to offset part or all of the consumer's own electricity
33 demand, and shall not be owned by local publicly owned electric
34 utilities, nor be located at a customer site that is not receiving
35 distribution service from an electrical corporation that is subject
36 to the renewable energy public goods charge and contributing
37 funds to support programs under this chapter. All eligible
38 electricity generating system components shall be new and
39 unused, shall not have been previously placed in service in any
40 other location or for any other application, and shall have a

1 warranty of not less than five years to protect against defects and
2 undue degradation of electrical generation output. Systems and
3 their fuel resources shall be located on the same premises of the
4 end-use consumer where the consumer's own electricity demand
5 is located, and all eligible electricity generating systems shall be
6 connected to the utility grid in California. The commission may
7 require eligible electricity generating systems to have meters in
8 place to monitor and measure a system's performance and
9 generation. Only systems that will be operated in compliance
10 with applicable law and the rules of the Public Utilities
11 Commission shall be eligible for funding.

12 (4) The commission shall limit the amount of funds available
13 for any system or project of multiple systems and reduce the
14 level of funding for any system or project of multiple systems
15 that has received, or may be eligible to receive, any government
16 or utility funds, incentives, or credit.

17 (5) In awarding funding, the commission may provide
18 preference to systems that provide tangible demonstrable benefits
19 to communities with a plurality of minority or low-income
20 populations.

21 (6) In awarding funding, the commission shall develop and
22 implement eligibility criteria and a system that provides
23 preference to systems based upon system performance, taking
24 into account factors, including shading, insulation levels, and
25 installation orientation.

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

30 (e) Notwithstanding Section 399.6 of the Public Utilities Code,
31 the commission may expend, until December 31, 2008, up to
32 sixty million dollars (\$60,000,000) of the funding allocated to the
33 Renewable Resources Trust Fund for the program established in
34 this section, subject to the repayment requirements of subdivision
35 (f) of Section 25751.

36 SEC. 5.

37 SEC. 4. Section 25745 of the Public Resources Code is
38 repealed.

1 ~~SEC. 6.~~

2 *SEC. 5.* Section 25749 of the Public Resources Code is
3 repealed.

4 ~~SEC. 7.~~

5 *SEC. 6.* Section 387 of the Public Utilities Code is amended
6 to read:

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

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

18 (1) Expenditures of public goods funds collected pursuant to
19 Section 385 for eligible renewable energy resource development.
20 Reports shall contain a description of programs, expenditures,
21 and expected or actual results.

22 (2) The resource mix used to serve its customers by fuel type.
23 Reports shall contain the contribution of each type of renewable
24 energy resource with separate categories for those fuels that are
25 eligible renewable energy resources as defined in Section 399.12,
26 except that the electricity is delivered to the local publicly owned
27 electric utility and not a retail seller. Electricity shall be reported
28 as having been delivered to the local publicly owned electric
29 utility from an eligible renewable energy resource when the
30 electricity would qualify for compliance with the renewables
31 portfolio standard if it were delivered to a retail seller.

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

35 ~~SEC. 8.~~

36 *SEC. 7.* Section 399.11 of the Public Utilities Code is
37 amended to read:

38 399.11. The Legislature finds and declares all of the
39 following:

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and 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 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 eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

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

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

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

~~SEC. 9.~~

SEC. 8. 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) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(b) "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 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 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. This paragraph shall remain operative only until January 1, 2010.~~

(2)

(1) (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, 2005, ~~and that electricity shall be eligible only for purposes of adjusting the retail seller’s baseline quantity of eligible renewable energy resources 2005.~~ A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or any other provision authorizing an appropriation of water.

(B) Notwithstanding subparagraph (A), an existing conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be eligible ~~for the purposes of adjusting a retail seller’s baseline quantity of~~ *an eligible renewable energy resource resource.* A new conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource so long as it does not require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or any other provision authorizing an appropriation of water.

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

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

15 (c) "Energy Commission" means the State Energy Resources
16 Conservation and Development Commission.

17 (d) ~~"Local publicly owned electric utility" as used in this~~
18 ~~division means a municipality or municipal corporation operating~~
19 ~~as a "public utility" furnishing electric service as provided in~~
20 ~~Section 10001, a municipal utility district furnishing electric~~
21 ~~service formed pursuant to Division 6 (commencing with Section~~
22 ~~11501), a public utility district furnishing electric services~~
23 ~~formed pursuant to the Public Utility District Act set forth in~~
24 ~~Division 7 (commencing with Section 15501), an irrigation~~
25 ~~district furnishing electric services formed pursuant to the~~
26 ~~Irrigation District Law set forth in Division 11 (commencing~~
27 ~~with Section 20500) of the Water Code, or a joint powers~~
28 ~~authority that includes one or more of these agencies and that~~
29 ~~owns generation or transmission facilities, or furnishes electric~~
30 ~~services over its own or its member's electric distribution system.~~
31 *has the same meaning as provided in subdivision (d) of Section*
32 *9604.*

33 (e) "Procure" means that a retail seller receives delivered
34 electricity generated by an eligible renewable energy resource
35 that it owns or for which it has entered into an electricity
36 purchase agreement. Nothing in this article is intended to imply
37 that the purchase of electricity from third parties in a wholesale
38 transaction is the preferred method of fulfilling a retail seller's
39 obligation to comply with this article.

(f) “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 this article.

(g) (1) “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 and delivered by an eligible renewable energy resource.

(2) “Renewable energy credit” includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

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

(h) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

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

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

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

~~(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service 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 January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires, whichever is earlier. Nothing in this subdivision may require an electric~~

1 ~~service provider to disclose the terms of the contract to the~~
2 ~~commission.~~

3 ~~(C) The~~ *for all sales of electricity to customers beginning*
4 *January 1, 2006. The* commission shall institute a rulemaking to
5 determine the manner in which electric service providers will
6 participate in the renewables portfolio standard program. The
7 electric service provider shall be subject to the same terms and
8 conditions applicable to an electrical corporation pursuant to this
9 article. Nothing in this paragraph shall impair a contract entered
10 into between an electric service provider and a retail customer
11 prior to the suspension of direct access by the commission
12 pursuant to Section 80110 of the Water Code.

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

14 (A) A corporation or person employing cogeneration
15 technology or producing electricity consistent with subdivision
16 (b) of Section 218.

17 (B) The Department of Water Resources acting in its capacity
18 pursuant to Division 27 (commencing with Section 80000) of the
19 Water Code.

20 (C) A local publicly owned electric utility.

21 ~~SEC. 10.~~

22 *SEC. 9.* Section 399.13 of the Public Utilities Code is
23 amended to read:

24 399.13. The Energy Commission shall do all of the following:

25 (a) Certify eligible renewable energy resources that it
26 determines meet the criteria described in subdivision (b) of
27 Section 399.12.

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

1 Section 6250) of Division 7 of Title 1 of the Government Code).
2 In seeking data from electrical corporations, the Energy
3 Commission shall request data from the commission. The
4 commission shall collect data from electrical corporations and
5 remit the data to the Energy Commission within 90 days of the
6 request.

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

15 (d) Certify, for purposes of compliance with the renewable
16 portfolio standard requirements by a retail seller, the eligibility of
17 renewable energy credits associated with deliveries of electricity
18 by an eligible renewable energy resource to a local publicly
19 owned electric utility, if the Energy Commission determines that
20 the following conditions have been satisfied:

21 (1) The local publicly owned electric utility that is procuring
22 the electricity is in compliance with the requirements of Section
23 387.

24 (2) The local publicly owned electric utility has established an
25 annual renewables portfolio standard target comparable to those
26 applicable to an electrical corporation, is procuring sufficient
27 eligible renewable energy resources to satisfy the targets, and
28 will not fail to satisfy the targets in the event that the renewable
29 energy credit is sold to another retail seller.

30 (e) Allocate and award supplemental energy payments
31 pursuant to Chapter 8.6 (commencing with Section 25740) of
32 Division 15 of the Public Resources Code, to eligible renewable
33 energy resources to cover above-market costs of renewable
34 energy. A project selected by an electrical corporation may
35 receive supplemental energy payments only if it results from a
36 competitive solicitation that is found by the commission to
37 comply with the California Renewables Portfolio Standard
38 Program under this article and the project has entered into an
39 electricity purchase agreement resulting from that solicitation
40 that is approved by the commission. A project selected for an

electricity purchase agreement by another retail seller may receive supplemental energy payments only if the retail seller demonstrates to the commission that the selection of the project is consistent with the results of a least-cost and best-fit process, and that the supplemental energy payments are reasonable in comparison to those paid under similar contracts with other retail sellers.

(f) Deliveries of electricity from an eligible renewable energy resource under an electricity purchase agreement with a retail seller executed before January 1, 2002, shall be tracked through the accounting system described in subdivision (b) and ~~included in the baseline quantity of eligible renewable energy resources~~ *credited toward the annual procurement targets* of the purchasing retail seller pursuant to Section 399.15.

(g) Deliveries of electricity from an eligible renewable energy resource under an electricity purchase agreement with a retail seller executed after January 1, 2002, 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. 11.~~

SEC. 10. 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 (4)~~ *that includes the matter in paragraph (3)*, to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(2) The commission shall adopt, by rulemaking, all of the following:

(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of

1 a competitive solicitation conducted by an electrical corporation
2 for eligible renewable energy resources.

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 retail sellers 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. The flexible rules for
15 compliance shall apply to all years, including years before and
16 after a retail seller procures at least 20 percent of total retail sales
17 of electricity from eligible renewable energy resources. The
18 flexible rules for compliance shall address situations where, as a
19 result of transmission constraints, a retail seller is unable to
20 procure eligible renewable energy resources sufficient to satisfy
21 the requirements of this article. Any rules addressing
22 transmission constraints shall require a finding by the
23 commission that the retail seller has undertaken all reasonable
24 efforts to utilize flexible delivery points and has undertaken all
25 reasonable efforts to ensure the availability of any needed
26 transmission capacity.

27 (D) Standard terms and conditions to be used by all electrical
28 corporations in contracting for eligible renewable energy
29 resources, including performance requirements for renewable
30 generators. A contract for the purchase of electricity generated by
31 an eligible renewable energy resource shall, at a minimum,
32 include the renewable energy credits associated with all
33 electricity generation specified under the contract. The standard
34 terms and conditions shall include the requirement that, no later
35 than six months after the commission's approval of an electricity
36 purchase agreement entered into pursuant to this article, the
37 following information about the agreement shall be disclosed by
38 the commission: party names, resource type, project location, and
39 project capacity.

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

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

10 (B) Provisions for employing available compliance flexibility
11 mechanisms established by the commission.

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

15 (4) In soliciting and procuring eligible renewable energy
16 resources, each electrical corporation shall offer contracts of no
17 less than 10 years in duration, unless the commission approves of
18 a contract of shorter duration.

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

24 (b) The commission may authorize a retail seller to enter into
25 a contract of less than ~~10-years~~ years' duration with an eligible
26 renewable energy resource, subject to the following conditions:

27 (1) No supplemental energy payments shall be awarded for a
28 contract of less than ~~10-years~~ years' duration. The ineligibility of
29 contracts of less than ~~10-years~~ years' duration for supplemental
30 energy payments pursuant to this paragraph does not constitute
31 an insufficiency in supplemental energy payments pursuant to
32 paragraph (4) or (5) of subdivision (b) of Section 399.15.

33 (2) The commission has established minimum quantities of
34 eligible renewable energy resources to be procured by the retail
35 seller through contracts of at least ~~10-years~~ years' duration.

36 (c) The commission shall review and accept, modify, or reject
37 each electrical corporation's renewable energy procurement plan
38 prior to the commencement of renewable procurement pursuant
39 to this article by an electrical corporation.

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

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

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy annual renewables portfolio standard obligations. ~~Subject The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.~~

(2) ~~Subject~~ to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers *that are served by the procurement entity and are* directly benefiting from the procurement of eligible renewable energy resources. ~~A~~

(3) A project selected for a long-term electricity purchase contract of more than ~~10-years~~ years' duration by a procurement entity through a competitive solicitation, and approved by the commission, may receive supplemental energy payments from the Energy Commission if the transaction satisfies the requirements of subdivision (b) of Section 25743 of the Public Resources Code.

(g) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant

1 to subdivision (c) of Section 399.15, shall be deemed reasonable
2 per se, and shall be recoverable in rates.

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

11 ~~SEC. 12.~~

12 *SEC. 11.* Section 399.15 of the Public Utilities Code is
13 amended to read:

14 399.15. (a) In order to fulfill unmet long-term resource
15 needs, the commission shall establish a renewables portfolio
16 standard requiring all electrical corporations to procure a
17 minimum quantity of electricity generated by eligible renewable
18 energy resources as a specified percentage of total kilowatthours
19 sold to their retail end-use customers each calendar year, if
20 sufficient funds are made available pursuant to Section 399.6 and
21 Chapter 8.6 (commencing with Section 25740) of Division 15 of
22 the Public Resources Code, to cover the above-market costs of
23 eligible renewable energy resources.

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

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

35 (2) For purposes of setting annual procurement targets, the
36 commission shall establish an initial baseline for each retail seller
37 based on the actual percentage of retail sales procured from
38 eligible renewable energy resources in 2001, and, to the extent
39 applicable, adjusted going forward pursuant to Section 399.12..

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

6 (4) In the event that a retail seller fails to procure sufficient
7 eligible renewable energy resources in a given year to meet any
8 annual target established pursuant to this subdivision, the retail
9 seller shall procure additional eligible renewable energy
10 resources in subsequent years to compensate for the shortfall if
11 sufficient funds are made available pursuant to Section 399.6 and
12 Chapter 8.6 (commencing with Section 25740) of Division 15 of
13 the Public Resources Code, to cover any above-market costs of
14 eligible renewable energy resources.

15 (5) If supplemental energy payments from the Energy
16 Commission, in combination with the market prices approved by
17 the commission, are insufficient to cover any above-market costs
18 of electricity procured from eligible renewable energy resources
19 through an electricity purchase agreement of at least 10 ~~years~~
20 *years*' duration, the commission shall allow a retail seller to limit
21 its annual procurement obligation to the quantity of eligible
22 renewable energy resources that can be procured with available
23 supplemental energy payments. A retail seller shall not be
24 required to enter into long-term contracts with operators of
25 eligible renewable energy resources that exceed the market prices
26 established pursuant to subdivision (c).

27 (c) The commission shall establish a methodology to
28 determine the market price of electricity for terms corresponding
29 to the length of contracts with eligible renewable energy
30 resources, in consideration of the following:

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

34 (2) The long-term ownership, operating, and fixed-price fuel
35 costs associated with fixed-price electricity from new generating
36 facilities.

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

39 (d) The Energy Commission shall provide supplemental
40 energy payments from funds in the New Renewable Resources

1 Account of the Renewable Resource Trust Fund to eligible
2 renewable energy resources pursuant to Chapter 8.6
3 (commencing with Section 25740) of Division 15 of the Public
4 Resources Code, consistent with this article, for any
5 above-market costs. Indirect costs associated with the purchase
6 of eligible renewable energy resources by an electrical
7 corporation, including imbalance energy charges, sale of excess
8 energy, decreased generation from existing resources, or
9 transmission upgrades, shall not be eligible for supplemental
10 energy payments, but are recoverable in rates, as authorized by
11 the commission. The Energy Commission shall not award
12 supplemental energy payments to service load that is not subject
13 to the renewable energy public goods charge.

14 (e) The establishment of a renewables portfolio standard shall
15 not constitute implementation by the commission of the federal
16 Public Utility Regulatory Policies Act of 1978 (Public Law
17 95-617).

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

21 ~~SEC. 13.~~

22 ~~SEC. 12.~~ Section 399.16 of the Public Utilities Code is
23 repealed.

24 ~~SEC. 14.~~

25 ~~SEC. 13.~~ Section 399.16 is added to the Public Utilities Code,
26 to read:

27 399.16. (a) The commission, by rule, may authorize the use
28 of renewable energy credits to satisfy ~~annual procurement targets~~
29 *the requirements of the renewables portfolio standard* established
30 pursuant to this article, subject to the following conditions:

31 ~~(a)~~

32 (1) Prior to authorizing any renewable energy credit to be used
33 toward satisfying annual procurement targets, the commission
34 and the Energy Commission shall conclude that the tracking
35 system established pursuant to subdivision (c) of Section 399.13,
36 is operational, is capable of independently verifying the
37 electricity generated by an eligible renewable energy resource
38 and delivered to the retail seller, and can ensure that renewable
39 energy credits shall not be double counted by any seller of

1 electricity within the service territory of the Western Electricity
2 Coordinating Council (WECC).

3 ~~(b)~~

4 (2) A renewable energy credit shall be counted only once for
5 compliance with the renewables portfolio standard of this state or
6 any other state, or for verifying retail product claims in this state
7 or any other state.

8 ~~(e)~~

9 (3) The electricity is delivered to a retail seller, the
10 Independent System Operator, or a local publicly owned electric
11 utility.

12 ~~(d)~~

13 (4) All revenues received by an electrical corporation for the
14 sale of a renewable energy credit shall be credited to the benefit
15 of ratepayers.

16 (5) *No renewable energy credits shall be created for*
17 *electricity generated pursuant to any electricity purchase*
18 *contract with a retail seller executed before January 1, 2005,*
19 *unless the contract contains explicit terms and conditions*
20 *specifying the ownership or disposition of those credits.*
21 *Deliveries under those contracts shall be tracked through the*
22 *accounting system described in subdivision (b) of Section 399.13*
23 *and included in the baseline quantity of eligible renewable*
24 *energy resources of the purchasing retail seller pursuant to*
25 *Section 399.15.*

26 (6) *No renewable energy credits shall be created for*
27 *electricity generated under any electricity purchase contract*
28 *executed after January 1, 2005, pursuant to the federal Public*
29 *Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et*
30 *seq.). Deliveries under the electricity purchase contracts shall be*
31 *tracked through the accounting system described in subdivision*
32 *(b) of Section 399.12 and count towards the renewables portfolio*
33 *standard obligations of the purchasing retail seller.*

34 ~~(e)~~

35 (7) The commission may limit the quantity of renewable
36 energy credits that may be procured unbundled from electricity
37 generation by any retail seller, to meet the annual procurement
38 targets.

39 ~~(f)~~

(8) 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 the market prices approved by the commission, are insufficient to cover the above-market costs of long-term contracts, of more than 10-years years' duration, with eligible renewable energy resources.

(g)
(9) Any additional condition that the commission determines is reasonable.

(b) *The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.*

~~SEC. 15.~~

SEC. 14. 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 electric utility, the electrical corporation or local publicly owned electric utility shall adopt a strategy applicable both to newly constructed or repowered generation owned and procured by the electrical corporation or local publicly owned electric utility to achieve efficiency in the use of fossil fuels and to address carbon emissions.

SEC. 15. *By June 30, 2007, the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, shall review the impact of allowing supplemental energy payments to be applied toward contracts for the procurement of eligible renewable energy resources that are of a duration of less than 10 years, and to report to the Legislature with the results of the review, including both of the following:*

(a) *The impact that higher priced short-term contracts may have on the allocation of supplemental energy payments.*

(b) *Recommended methods to fairly allocate supplemental energy payments for the above-market costs of short-term*

contracts that ensure that no more supplemental energy payments are paid for those contracts than would have been allocated for an equivalent long-term contract.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

CORRECTIONS:

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