

Introduced by Senator Cannella
(Principal coauthor: Assembly Member Olsen)
(Coauthors: Senators Berryhill and La Malfa)

January 18, 2012

An act to amend Section 25740 of the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.14, 399.15, and 399.30 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 971, as introduced, Cannella. Renewable energy resources.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. The existing Renewables Portfolio Standard Program (RPS program) requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods. The specified minimum quantities of electricity products are based upon a percentage of the utility's total retail sales of electricity in California.

This bill would revise the RPS program so that the specified minimum quantities of electricity products required to be procured are based upon a percentage of the utility's net program retail sales of electricity in California. The bill would define "net program retail sales" of electricity as being the total retail sales of electricity by the retail seller or local publicly owned electric utility within California, minus those retail sales where the load was met by noneligible hydroelectric generation, as defined.

The Renewable Energy Resources Program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020.

This bill would state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 33% of net program retail sales of electricity in California per year by December 31, 2020.

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

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 33 percent of ~~total~~ *net program* retail sales of electricity in
7 California per year by December 31, 2020. *Net program retail*
8 *sales are total retail sales of electricity, minus those retail sales*
9 *where the load was met by noneligible hydroelectric generation.*

10 SEC. 2. Section 399.11 of the Public Utilities Code is amended
11 to read:

12 399.11. The Legislature finds and declares all of the following:

13 (a) In order to attain a target of generating 20 percent of ~~total~~
14 *net program* retail sales of electricity in California from eligible
15 renewable energy resources by December 31, 2013, and 33 percent
16 by December 31, 2020, it is the intent of the Legislature that the
17 commission and the Energy Commission implement the California
18 Renewables Portfolio Standard Program described in this article.

19 (b) Achieving the renewables portfolio standard through the
20 procurement of various electricity products from eligible renewable
21 energy resources is intended to provide unique benefits to
22 California, including all of the following, each of which
23 independently justifies the program:

24 (1) Displacing fossil fuel consumption within the state.

1 (2) Adding new electrical generating facilities in the
2 transmission network within the Western Electricity Coordinating
3 Council service area.

4 (3) Reducing air pollution in the state.

5 (4) Meeting the state’s climate change goals by reducing
6 emissions of greenhouse gases associated with electrical generation.

7 (5) Promoting stable retail rates for electric service.

8 (6) Meeting the state’s need for a diversified and balanced
9 energy generation portfolio.

10 (7) Assistance with meeting the state’s resource adequacy
11 requirements.

12 (8) Contributing to the safe and reliable operation of the
13 electrical grid, including providing predictable electrical supply,
14 voltage support, lower line losses, and congestion relief.

15 (9) Implementing the state’s transmission and land use planning
16 activities related to development of eligible renewable energy
17 resources.

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

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

26 (e) (1) Supplying electricity to California end-use customers
27 that is generated by eligible renewable energy resources is
28 necessary to improve California’s air quality and public health,
29 and the commission shall ensure rates are just and reasonable, and
30 are not significantly affected by the procurement requirements of
31 this article. This electricity may be generated anywhere in the
32 interconnected grid that includes many states, and areas of both
33 Canada and Mexico.

34 (2) This article requires generating resources located outside of
35 California, but are able to supply that electricity to California
36 end-use customers, to be treated identically to generating resources
37 located within the state, without discrimination.

38 (3) California electrical corporations have already executed,
39 and the commission has approved, power purchase agreements
40 with eligible renewable energy resources located outside of

1 California that will supply electricity to California end-use
2 customers. These resources will fully count toward meeting the
3 renewables portfolio standard procurement requirements. In
4 addition, there are nearly 7,000 megawatts of additional proposed
5 renewable energy resources located outside of California that are
6 awaiting interconnection approval from the Independent System
7 Operator. All of these resources, if procured, will count as eligible
8 renewable energy resources that satisfy the portfolio content
9 requirements of paragraph (1) of subdivision (c) of Section 399.16.

10 SEC. 3. Section 399.12 of the Public Utilities Code is amended
11 to read:

12 399.12. For purposes of this article, the following terms have
13 the following meanings:

14 (a) “Conduit hydroelectric facility” means a facility for the
15 generation of electricity that uses only the hydroelectric potential
16 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
17 manmade conduit that is operated to distribute water for a
18 beneficial use.

19 (b) “Balancing authority” means the responsible entity that
20 integrates resource plans ahead of time, maintains load-interchange
21 generation balance within a balancing authority area, and supports
22 interconnection frequency in real time.

23 (c) “Balancing authority area” means the collection of
24 generation, transmission, and loads within the metered boundaries
25 of the area within which the balancing authority maintains the
26 electrical load-resource balance.

27 (d) “California balancing authority” is a balancing authority
28 with control over a balancing authority area primarily located in
29 this state and operating for retail sellers and local publicly owned
30 electric utilities subject to the requirements of this article and
31 includes the Independent System Operator (ISO) and a local
32 publicly owned electric utility operating a transmission grid that
33 is not under the operational control of the ISO. A California
34 balancing authority is responsible for the operation of the
35 transmission grid within its metered boundaries which may not be
36 limited by the political boundaries of the State of California.

37 (e) “Eligible renewable energy resource” means an electrical
38 generating facility that meets the definition of an a “renewable
39 electrical generation facility” in Section 25741 of the Public
40 Resources Code, subject to the following:

1 (1) (A) An existing small hydroelectric generation facility of
2 30 megawatts or less shall be eligible only if a retail seller or local
3 publicly owned electric utility procured the electricity from the
4 facility as of December 31, 2005. A small hydroelectric generation
5 unit with a nameplate capacity not exceeding 40 megawatts that
6 is operated as part of a water supply or conveyance system is an
7 eligible renewable energy resource if the retail seller or local
8 publicly owned electric utility procured the electricity from the
9 facility as of December 31, 2005. A new hydroelectric facility that
10 commences generation of electricity after December 31, 2005, is
11 not an eligible renewable energy resource if it will cause an adverse
12 impact on instream beneficial uses or cause a change in the volume
13 or timing of streamflow.

14 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
15 facility of 30 megawatts or less that commenced operation before
16 January 1, 2006, is an eligible renewable energy resource. A
17 conduit hydroelectric facility of 30 megawatts or less that
18 commences operation after December 31, 2005, is an eligible
19 renewable energy resource so long as it does not cause an adverse
20 impact on instream beneficial uses or cause a change in the volume
21 or timing of streamflow.

22 (C) A facility approved by the governing board of a local
23 publicly owned electric utility prior to June 1, 2010, for
24 procurement to satisfy renewable energy procurement obligations
25 adopted pursuant to former Section 387, shall be certified as an
26 eligible renewable energy resource by the Energy Commission
27 pursuant to this article, if the facility is a “renewable electrical
28 generation facility” as defined in Section 25741 of the Public
29 Resources Code.

30 (2) A facility engaged in the combustion of municipal solid
31 waste shall not be considered an eligible renewable energy resource
32 unless it is located in Stanislaus County and was operational prior
33 to September 26, 1996.

34 (f) *“Net program retail sales” of electricity means the total*
35 *retail sales of electricity by the retail seller or local publicly owned*
36 *electric utility within California, minus those retail sales where*
37 *the load was met by noneligible hydroelectric generation. For*
38 *these purposes, “noneligible hydroelectric generation” means*
39 *electricity that is generated by a hydroelectric generation facility*

1 *that does not meet the requirements of this section or Section*
2 *399.12.5 to be an eligible renewable energy resource.*

3 ~~(f)~~

4 (g) “Procure” means to acquire through ownership or contract.

5 ~~(g)~~

6 (h) “Procurement entity” means any person or corporation
7 authorized by the commission to enter into contracts to procure
8 eligible renewable energy resources on behalf of customers of a
9 retail seller pursuant to subdivision (f) of Section 399.13.

10 ~~(h)~~

11 (i) (1) “Renewable energy credit” means a certificate of proof
12 associated with the generation of electricity from an eligible
13 renewable energy resource, issued through the accounting system
14 established by the Energy Commission pursuant to Section 399.25,
15 that one unit of electricity was generated and delivered by an
16 eligible renewable energy resource.

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

24 (3) (A) An electricity generated by an eligible renewable energy
25 resource attributable to the use of nonrenewable fuels, beyond a
26 de minimis quantity used to generate electricity in the same process
27 through which the facility converts renewable fuel to electricity,
28 shall not result in the creation of a renewable energy credit. The
29 Energy Commission shall set the de minimis quantity of
30 nonrenewable fuels for each renewable energy technology at a
31 level of no more than 2 percent of the total quantity of fuel used
32 by the technology to generate electricity. The Energy Commission
33 may adjust the de minimis quantity for an individual facility, up
34 to a maximum of 5 percent, if it finds that all of the following
35 conditions are met:

36 (i) The facility demonstrates that the higher quantity of
37 nonrenewable fuel will lead to an increase in generation from the
38 eligible renewable energy facility that is significantly greater than
39 generation from the nonrenewable fuel alone.

1 (ii) The facility demonstrates that the higher quantity of
2 nonrenewable fuels will reduce the variability of its electrical
3 output in a manner that results in net environmental benefits to the
4 state.

5 (iii) The higher quantity of nonrenewable fuel is limited to either
6 natural gas or hydrogen derived by reformation of a fossil fuel.

7 (B) Electricity generated by a small hydroelectric generation
8 facility shall not result in the creation of a renewable energy credit
9 unless the facility meets the requirements of subparagraph (A) of
10 paragraph (1) of subdivision (e).

11 (C) Electricity generated by a conduit hydroelectric generation
12 facility shall not result in the creation of a renewable energy credit
13 unless the facility meets the requirements of subparagraph (B) of
14 paragraph (1) of subdivision (e).

15 (D) Electricity generated by a facility engaged in the combustion
16 of municipal solid waste shall not result in the creation of a
17 renewable energy credit unless the facility meets the requirements
18 of paragraph (2) of subdivision (e).

19 (i)

20 (j) “Renewables portfolio standard” means the specified
21 percentage of electricity generated by eligible renewable energy
22 resources that a retail seller or a local publicly owned electric utility
23 is required to procure pursuant to this article.

24 (i)

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

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

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

34 (3) An electric service provider, ~~as defined in Section 218.3,~~
35 for all sales of electricity to customers beginning January 1, 2006.
36 The commission shall institute a rulemaking to determine the
37 manner in which electric service providers will participate in the
38 renewables portfolio standard program. The electric service
39 provider shall be subject to the same terms and conditions
40 applicable to an electrical corporation pursuant to this article. This

1 paragraph does not impair a contract entered into between an
2 electric service provider and a retail customer prior to the
3 suspension of direct access by the commission pursuant to Section
4 80110 of the Water Code.

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

6 (A) A corporation or person employing cogeneration technology
7 or producing electricity consistent with subdivision (b) of Section
8 218.

9 (B) The Department of Water Resources acting in its capacity
10 pursuant to Division 27 (commencing with Section 80000) of the
11 Water Code.

12 (C) A local publicly owned electric utility.

13 ~~(k)~~

14 (l) “WECC” means the Western Electricity Coordinating
15 Council of the North American Electric Reliability Corporation,
16 or a successor to either corporation.

17 SEC. 4. Section 399.13 of the Public Utilities Code is amended
18 to read:

19 399.13. (a) (1) The commission shall direct each electrical
20 corporation to annually prepare a renewable energy procurement
21 plan that includes the matter in paragraph (5), to satisfy its
22 obligations under the renewables portfolio standard. To the extent
23 feasible, this procurement plan shall be proposed, reviewed, and
24 adopted by the commission as part of, and pursuant to, a general
25 procurement plan process. The commission shall require each
26 electrical corporation to review and update its renewable energy
27 procurement plan as it determines to be necessary.

28 (2) Every electrical corporation that owns electrical transmission
29 facilities shall annually prepare, as part of the Federal Energy
30 Regulatory Commission Order 890 process, and submit to the
31 commission, a report identifying any electrical transmission
32 facility, upgrade, or enhancement that is reasonably necessary to
33 achieve the renewables portfolio standard procurement
34 requirements of this article. Each report shall look forward at least
35 five years and, to ensure that adequate investments are made in a
36 timely manner, shall include a preliminary schedule when an
37 application for a certificate of public convenience and necessity
38 will be made, pursuant to Chapter 5 (commencing with Section
39 1001), for any electrical transmission facility identified as being
40 reasonably necessary to achieve the renewable energy resources

1 procurement requirements of this article. Each electrical
2 corporation that owns electrical transmission facilities shall ensure
3 that project-specific interconnection studies are completed in a
4 timely manner.

5 (3) The commission shall direct each retail seller to prepare and
6 submit an annual compliance report that includes all of the
7 following:

8 (A) The current status and progress made during the prior year
9 toward procurement of eligible renewable energy resources as a
10 percentage of *net program* retail sales, including, if applicable, the
11 status of any necessary siting and permitting approvals from
12 federal, state, and local agencies for those eligible renewable energy
13 resources procured by the retail seller, and the current status of
14 compliance with the portfolio content requirements of subdivision
15 (c) of Section 399.16, including procurement of eligible renewable
16 energy resources located outside the state and within the WECC
17 and unbundled renewable energy credits.

18 (B) If the retail seller is an electrical corporation, the current
19 status and progress made during the prior year toward construction
20 of, and upgrades to, transmission and distribution facilities and
21 other electrical system components it owns to interconnect eligible
22 renewable energy resources and to supply the electricity generated
23 by those resources to load, including the status of planning, siting,
24 and permitting transmission facilities by federal, state, and local
25 agencies.

26 (C) Recommendations to remove impediments to making
27 progress toward achieving the renewable energy resources
28 procurement requirements established pursuant to this article.

29 (4) The commission shall adopt, by rulemaking, all of the
30 following:

31 (A) A process that provides criteria for the rank ordering and
32 selection of least-cost and best-fit eligible renewable energy
33 resources to comply with the California Renewables Portfolio
34 Standard Program obligations on a total cost basis. This process
35 shall take into account all of the following:

36 (i) Estimates of indirect costs associated with needed
37 transmission investments and ongoing electrical corporation
38 expenses resulting from integrating and operating eligible
39 renewable energy resources.

1 (ii) The cost impact of procuring the eligible renewable energy
2 resources on the electrical corporation's electricity portfolio.

3 (iii) The viability of the project to construct and reliably operate
4 the eligible renewable energy resource, including the developer's
5 experience, the feasibility of the technology used to generate
6 electricity, and the risk that the facility will not be built, or that
7 construction will be delayed, with the result that electricity will
8 not be supplied as required by the contract.

9 (iv) Workforce recruitment, training, and retention efforts,
10 including the employment growth associated with the construction
11 and operation of eligible renewable energy resources and goals
12 for recruitment and training of women, minorities, and disabled
13 veterans.

14 (B) Rules permitting retail sellers to accumulate, beginning
15 January 1, 2011, excess procurement in one compliance period to
16 be applied to any subsequent compliance period. The rules shall
17 apply equally to all retail sellers. In determining the quantity of
18 excess procurement for the applicable compliance period, the
19 commission shall deduct from actual procurement quantities, the
20 total amount of procurement associated with contracts of less than
21 10 years in duration. In no event shall electricity products meeting
22 the portfolio content of paragraph (3) of subdivision (b) of Section
23 399.16 be counted as excess procurement.

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

36 (D) An appropriate minimum margin of procurement above the
37 minimum procurement level necessary to comply with the
38 renewables portfolio standard to mitigate the risk that renewable
39 projects planned or under contract are delayed or canceled. This
40 paragraph does not preclude an electrical corporation from

1 voluntarily proposing a margin of procurement above the
2 appropriate minimum margin established by the commission.

3 (5) Consistent with the goal of increasing California’s reliance
4 on eligible renewable energy resources, the renewable energy
5 procurement plan submitted by an electrical corporation shall
6 include all of the following:

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

11 (B) Potential compliance delays related to the conditions
12 described in paragraph (4) of subdivision (b) of Section 399.15.

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

16 (D) A status update on the development schedule of all eligible
17 renewable energy resources currently under contract.

18 (E) Consideration of mechanisms for price adjustments
19 associated with the costs of key components for eligible renewable
20 energy resource projects with online dates more than 24 months
21 after the date of contract execution.

22 (F) An assessment of the risk that an eligible renewable energy
23 resource will not be built, or that construction will be delayed,
24 with the result that electricity will not be delivered as required by
25 the contract.

26 (6) In soliciting and procuring eligible renewable energy
27 resources, each electrical corporation shall offer contracts of no
28 less than 10 years duration, unless the commission approves of a
29 contract of shorter duration.

30 (7) In soliciting and procuring eligible renewable energy
31 resources for California-based projects, each electrical corporation
32 shall give preference to renewable energy projects that provide
33 environmental and economic benefits to communities afflicted
34 with poverty or high unemployment, or that suffer from high
35 emission levels of toxic air contaminants, criteria air pollutants,
36 and greenhouse gases.

37 (b) A retail seller may enter into a combination of long- and
38 short-term contracts for electricity and associated renewable energy
39 credits. The commission may authorize a retail seller to enter into
40 a contract of less than 10 years’ duration with an eligible renewable

1 energy resource, if the commission has established, for each retail
2 seller, minimum quantities of eligible renewable energy resources
3 to be procured through contracts of at least 10 years' duration.

4 (c) The commission shall review and accept, modify, or reject
5 each electrical corporation's renewable energy resource
6 procurement plan prior to the commencement of renewable energy
7 procurement pursuant to this article by an electrical corporation.

8 (d) Unless previously preapproved by the commission, an
9 electrical corporation shall submit a contract for the generation of
10 an eligible renewable energy resource to the commission for review
11 and approval consistent with an approved renewable energy
12 resource procurement plan. If the commission determines that the
13 bid prices are elevated due to a lack of effective competition among
14 the bidders, the commission shall direct the electrical corporation
15 to renegotiate the contracts or conduct a new solicitation.

16 (e) If an electrical corporation fails to comply with a commission
17 order adopting a renewable energy resource procurement plan, the
18 commission shall exercise its authority pursuant to Section 2113
19 to require compliance. The commission shall enforce comparable
20 penalties on any retail seller that is not an electrical corporation
21 that fails to meet the procurement targets established pursuant to
22 Section 399.15.

23 (f) (1) The commission may authorize a procurement entity to
24 enter into contracts on behalf of customers of a retail seller for
25 electricity products from eligible renewable energy resources to
26 satisfy the retail seller's renewables portfolio standard procurement
27 requirements. The commission shall not require any person or
28 corporation to act as a procurement entity or require any party to
29 purchase eligible renewable energy resources from a procurement
30 entity.

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

37 (g) Procurement and administrative costs associated with
38 contracts entered into by an electrical corporation for eligible
39 renewable energy resources pursuant to this article and approved

1 by the commission are reasonable and prudent and shall be
2 recoverable in rates.

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

10 SEC. 5. Section 399.14 of the Public Utilities Code is amended
11 to read:

12 399.14. (a) (1) An electrical corporation, pursuant to Chapter
13 5 (commencing with Section 1001), and in order to meet its unmet
14 renewables portfolio standard procurement requirements, may
15 apply to the commission for approval to construct, own, and operate
16 an eligible renewable energy resource.

17 (2) If the proposed eligible renewable energy resource complies
18 with the requirements of subdivision (b), the commission shall
19 approve an application filed pursuant to paragraph (1), until the
20 commission has approved applications for eligible renewable
21 energy resources for the electrical corporation that, when
22 constructed and operating, will provide 8.25 percent of the
23 electrical corporation’s anticipated *net program* retail sales by
24 December 31, 2020, and thereafter.

25 (3) The commission may approve additional applications for
26 eligible renewable energy resources once the commission has
27 approved sufficient applications for eligible renewable energy
28 resources for the electrical corporation that, when constructed and
29 operating, will provide 8.25 percent of the electrical corporation’s
30 anticipated *net program* retail sales by December 31, 2020, and
31 thereafter.

32 (b) The commission shall not approve any application by an
33 electrical corporation pursuant to subdivision (a) unless both of
34 the following conditions are met:

35 (1) The eligible renewable energy resource utilizes a viable
36 technology at a reasonable cost.

37 (2) The eligible renewable energy resource provides comparable
38 or superior value to ratepayers when compared to then recent
39 contracts for generation provided by eligible renewable energy
40 resources.

1 (c) In approving any application by an electrical corporation
2 for approval to construct, own, and operate an eligible renewable
3 energy resource, the commission shall apply traditional
4 cost-of-service ratemaking. When applying traditional
5 cost-of-service ratemaking, the commission, in the certificate
6 authorizing the new construction, shall specify the maximum cost
7 determined to be reasonable and prudent for the construction of
8 the facility and the cost of initial operation of the facility. Upon a
9 filing by the electrical corporation, the commission may authorize
10 an increase in the maximum cost of construction if it determines
11 that the cost has in fact increased, that the cost increase is
12 determined to be reasonable and prudent, and that the present or
13 future public convenience or necessity require construction of the
14 project at the increased cost.

15 SEC. 6. Section 399.15 of the Public Utilities Code is amended
16 to read:

17 399.15. (a) In order to fulfill unmet long-term resource needs,
18 the commission shall establish a renewables portfolio standard
19 requiring all retail sellers to procure a minimum quantity of
20 electricity products from eligible renewable energy resources as
21 a specified percentage of total kilowatthours sold to their retail
22 end-use customers each compliance period to achieve the targets
23 established under this article. For any retail seller procuring at least
24 14 percent of *total* retail sales from eligible renewable energy
25 resources in 2010, the deficits associated with any previous
26 renewables portfolio standard shall not be added to any
27 procurement requirement pursuant to this article.

28 (b) The commission shall implement renewables portfolio
29 standard procurement requirements only as follows:

30 (1) Each retail seller shall procure a minimum quantity of
31 eligible renewable energy resources for each of the following
32 compliance periods:

33 (A) January 1, 2011, to December 31, 2013, inclusive.

34 (B) January 1, 2014, to December 31, 2016, inclusive.

35 (C) January 1, 2017, to December 31, 2020, inclusive.

36 (2) (A) No later than January 1, 2012, the commission shall
37 establish the quantity of electricity products from eligible
38 renewable energy resources to be procured by the retail seller for
39 each compliance period. These quantities shall be established in
40 the same manner for all retail sellers and result in the same

1 percentages used to establish compliance period quantities for all
2 retail sellers.

3 (B) In establishing quantities for the compliance period from
4 January 1, 2011, to December 31, 2013, inclusive, the commission
5 shall require procurement for each retail seller equal to an average
6 of 20 percent of *net program* retail sales. For the following
7 compliance periods, the quantities shall reflect reasonable progress
8 in each of the intervening years sufficient to ensure that the
9 procurement of electricity products from eligible renewable energy
10 resources achieves 25 percent of *net program* retail sales by
11 December 31, 2016, and 33 percent of *net program* retail sales by
12 December 31, 2020. The commission shall require retail sellers to
13 procure not less than 33 percent of *net program* retail sales of
14 electricity products from eligible renewable energy resources in
15 all subsequent years.

16 (C) Retail sellers shall be obligated to procure no less than the
17 quantities associated with all intervening years by the end of each
18 compliance period. Retail sellers shall not be required to
19 demonstrate a specific quantity of procurement for any individual
20 intervening year.

21 (3) The commission shall not require the procurement of eligible
22 renewable energy resources in excess of the quantities identified
23 in paragraph (2). A retail seller may voluntarily increase its
24 procurement of eligible renewable energy resources beyond the
25 renewables portfolio standard procurement requirements.

26 (4) Only for purposes of establishing the renewables portfolio
27 standard procurement requirements of paragraph (1) and
28 determining the quantities pursuant to paragraph (2), the
29 commission shall include all electricity sold to retail customers by
30 the Department of Water Resources pursuant to Division 27
31 (commencing with Section 80000) of the Water Code in the
32 calculation of *total and net program* retail sales by an electrical
33 corporation.

34 (5) The commission shall waive enforcement of this section if
35 it finds that the retail seller has demonstrated any of the following
36 conditions are beyond the control of the retail seller and will
37 prevent compliance:

38 (A) There is inadequate transmission capacity to allow for
39 sufficient electricity to be delivered from proposed eligible
40 renewable energy resource projects using the current operational

1 protocols of the Independent System Operator. In making its
2 findings relative to the existence of this condition with respect to
3 a retail seller that owns transmission lines, the commission shall
4 consider both of the following:

5 (i) Whether the retail seller has undertaken, in a timely fashion,
6 reasonable measures under its control and consistent with its
7 obligations under local, state, and federal laws and regulations, to
8 develop and construct new transmission lines or upgrades to
9 existing lines intended to transmit electricity generated by eligible
10 renewable energy resources. In determining the reasonableness of
11 a retail seller's actions, the commission shall consider the retail
12 seller's expectations for full-cost recovery for these transmission
13 lines and upgrades.

14 (ii) Whether the retail seller has taken all reasonable operational
15 measures to maximize cost-effective deliveries of electricity from
16 eligible renewable energy resources in advance of transmission
17 availability.

18 (B) Permitting, interconnection, or other circumstances that
19 delay procured eligible renewable energy resource projects, or
20 there is an insufficient supply of eligible renewable energy
21 resources available to the retail seller. In making a finding that this
22 condition prevents timely compliance, the commission shall
23 consider whether the retail seller has done all of the following:

24 (i) Prudently managed portfolio risks, including relying on a
25 sufficient number of viable projects.

26 (ii) Sought to develop one of the following: its own eligible
27 renewable energy resources, transmission to interconnect to eligible
28 renewable energy resources, or energy storage used to integrate
29 eligible renewable energy resources. This clause shall not require
30 an electrical corporation to pursue development of eligible
31 renewable energy resources pursuant to Section 399.14.

32 (iii) Procured an appropriate minimum margin of procurement
33 above the minimum procurement level necessary to comply with
34 the renewables portfolio standard to compensate for foreseeable
35 delays or insufficient supply.

36 (iv) Taken reasonable measures, under the control of the retail
37 seller, to procure cost-effective distributed generation and allowable
38 unbundled renewable energy credits.

39 (C) Unanticipated curtailment of eligible renewable energy
40 resources necessary to address the needs of a balancing authority.

1 (6) If the commission waives the compliance requirements of
2 this section, the commission shall establish additional reporting
3 requirements on the retail seller to demonstrate that all reasonable
4 actions under the control of the retail seller are taken in each of
5 the intervening years sufficient to satisfy future procurement
6 requirements.

7 (7) The commission shall not waive enforcement pursuant to
8 this section, unless the retail seller demonstrates that it has taken
9 all reasonable actions under its control, as set forth in paragraph
10 (5), to achieve full compliance.

11 (8) If a retail seller fails to procure sufficient eligible renewable
12 energy resources to comply with a procurement requirement
13 pursuant to paragraphs (1) and (2) and fails to obtain an order from
14 the commission waiving enforcement pursuant to paragraph (5),
15 the commission shall exercise its authority pursuant to Section
16 2113.

17 (9) Deficits associated with the compliance period shall not be
18 added to a future compliance period.

19 (c) The commission shall establish a limitation for each electrical
20 corporation on the procurement expenditures for all eligible
21 renewable energy resources used to comply with the renewables
22 portfolio standard. In establishing this limitation, the commission
23 shall rely on the following:

24 (1) The most recent renewable energy procurement plan.

25 (2) Procurement expenditures that approximate the expected
26 cost of building, owning, and operating eligible renewable energy
27 resources.

28 (3) The potential that some planned resource additions may be
29 delayed or canceled.

30 (d) In developing the limitation pursuant to subdivision (c), the
31 commission shall ensure all of the following:

32 (1) The limitation is set at a level that prevents disproportionate
33 rate impacts.

34 (2) The costs of all procurement credited toward achieving the
35 renewables portfolio standard are counted towards the limitation.

36 (3) Procurement expenditures do not include any indirect
37 expenses, including imbalance energy charges, sale of excess
38 energy, decreased generation from existing resources, transmission
39 upgrades, or the costs associated with relicensing any utility-owned
40 hydroelectric facilities.

1 (e) (1) No later than January 1, 2016, the commission shall
2 prepare a report to the Legislature assessing whether each electrical
3 corporation can achieve a 33-percent renewables portfolio standard
4 by December 31, 2020, and maintain that level thereafter, within
5 the adopted cost limitations. If the commission determines that it
6 is necessary to change the limitation for procurement costs incurred
7 by any electrical corporation after that date, it may propose a
8 revised cap consistent with the criteria in subdivisions (c) and (d).
9 The proposed modifications shall take effect no earlier than January
10 1, 2017.

11 (2) Notwithstanding Section 10231.5 of the Government Code,
12 the requirement for submitting a report imposed under paragraph
13 (1) is inoperative on January 1, 2021.

14 (3) A report to be submitted pursuant to paragraph (1) shall be
15 submitted in compliance with Section 9795 of the Government
16 Code.

17 (f) If the cost limitation for an electrical corporation is
18 insufficient to support the projected costs of meeting the
19 renewables portfolio standard procurement requirements, the
20 electrical corporation may refrain from entering into new contracts
21 or constructing facilities beyond the quantity that can be procured
22 within the limitation, unless eligible renewable energy resources
23 can be procured without exceeding a de minimis increase in rates,
24 consistent with the long-term procurement plan established for the
25 electrical corporation pursuant to Section 454.5.

26 (g) (1) The commission shall monitor the status of the cost
27 limitation for each electrical corporation in order to ensure
28 compliance with this article.

29 (2) If the commission determines that an electrical corporation
30 may exceed its cost limitation prior to achieving the renewables
31 portfolio standard procurement requirements, the commission shall
32 do both of the following within 60 days of making that
33 determination:

34 (A) Investigate and identify the reasons why the electrical
35 corporation may exceed its annual cost limitation.

36 (B) Notify the appropriate policy and fiscal committees of the
37 Legislature that the electrical corporation may exceed its cost
38 limitation, and include the reasons why the electrical corporation
39 may exceed its cost limitation.

1 (h) The establishment of a renewables portfolio standard shall
2 not constitute implementation by the commission of the federal
3 Public Utility Regulatory Policies Act of 1978 (Public Law
4 95-617).

5 SEC. 7. Section 399.30 of the Public Utilities Code is amended
6 to read:

7 399.30. (a) In order to fulfill unmet long-term generation
8 resource needs, each local publicly owned electric utility shall
9 adopt and implement a renewable energy resources procurement
10 plan that requires the utility to procure a minimum quantity of
11 electricity products from eligible renewable energy resources,
12 including renewable energy credits, as a specified percentage of
13 total kilowatthours sold to the utility's retail end-use customers,
14 each compliance period, to achieve the targets of subdivision (c).

15 (b) The governing board shall implement procurement targets
16 for a local publicly owned electric utility that require the utility to
17 procure a minimum quantity of eligible renewable energy resources
18 for each of the following compliance periods:

19 (1) January 1, 2011, to December 31, 2013, inclusive.

20 (2) January 1, 2014, to December 31, 2016, inclusive.

21 (3) January 1, 2017, to December 31, 2020, inclusive.

22 (c) The governing board of a local publicly owned electric utility
23 shall ensure all of the following:

24 (1) The quantities of eligible renewable energy resources to be
25 procured for the compliance period from January 1, 2011, to
26 December 31, 2013, inclusive, are equal to an average of 20 percent
27 of *net program* retail sales.

28 (2) The quantities of eligible renewable energy resources to be
29 procured for all other compliance periods reflect reasonable
30 progress in each of the intervening years sufficient to ensure that
31 the procurement of electricity products from eligible renewable
32 energy resources achieves 25 percent of *net program* retail sales
33 by December 31, 2016, and 33 percent of *net program* retail sales
34 by December 31, 2020. The local governing board shall require
35 the local publicly owned utilities to procure not less than 33 percent
36 of *net program* retail sales of electricity products from eligible
37 renewable energy resources in all subsequent years.

38 (3) A local publicly owned electric utility shall adopt
39 procurement requirements consistent with Section 399.16.

1 (d) The governing board of a local publicly owned electric utility
2 may adopt the following measures:

3 (1) Rules permitting the utility to apply excess procurement in
4 one compliance period to subsequent compliance periods in the
5 same manner as allowed for retail sellers pursuant to Section
6 399.13.

7 (2) Conditions that allow for delaying timely compliance
8 consistent with subdivision (b) of Section 399.15.

9 (3) Cost limitations for procurement expenditures consistent
10 with subdivision (c) of Section 399.15.

11 (e) The governing board of the local publicly owned electric
12 utility shall adopt a program for the enforcement of this article on
13 or before January 1, 2012. The program shall be adopted at a
14 publicly noticed meeting offering all interested parties an
15 opportunity to comment. Not less than 30 days' notice shall be
16 given to the public of any meeting held for purposes of adopting
17 the program. Not less than 10 days' notice shall be given to the
18 public before any meeting is held to make a substantive change to
19 the program.

20 (f) (1) Each local publicly owned electric utility shall annually
21 post notice, in accordance with Chapter 9 (commencing with
22 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
23 Code, whenever its governing body will deliberate in public on its
24 renewable energy resources procurement plan.

25 (2) Contemporaneous with the posting of the notice of a public
26 meeting to consider the renewable energy resources procurement
27 plan, the local publicly owned electric utility shall notify the
28 Energy Commission of the date, time, and location of the meeting
29 in order to enable the Energy Commission to post the information
30 on its Internet Web site. This requirement is satisfied if the local
31 publicly owned electric utility provides the uniform resource
32 locator (URL) that links to this information.

33 (3) Upon distribution to its governing body of information
34 related to its renewable energy resources procurement status and
35 future plans, for its consideration at a noticed public meeting, the
36 local publicly owned electric utility shall make that information
37 available to the public and shall provide the Energy Commission
38 with an electronic copy of the documents for posting on the Energy
39 Commission's Internet Web site. This requirement is satisfied if
40 the local publicly owned electric utility provides the uniform

1 resource locator (URL) that links to the documents or information
2 regarding other manners of access to the documents.

3 (g) A local publicly owned electric utility shall annually submit
4 to the Energy Commission documentation regarding eligible
5 renewable energy resources procurement contracts that it executed
6 during the prior year, as follows:

7 (1) A description of the eligible renewable energy resource,
8 including the duration of the contract or electricity purchase
9 agreement.

10 (2) A description and identification of the electrical generating
11 facility providing the eligible renewable energy resource under
12 the contract.

13 (3) An estimate of the percentage increase in the utility's ~~total~~
14 *net program* retail sales of electricity from eligible renewable
15 energy resources that will result from the contract.

16 (h) A public utility district that receives all of its electricity
17 pursuant to a preference right adopted and authorized by the United
18 States Congress pursuant to Section 4 of the Trinity River Division
19 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
20 with the renewable energy procurement requirements of this article.

21 (i) For a local publicly owned electric utility that was in
22 existence on or before January 1, 2009, that provides retail electric
23 service to 15,000 or fewer customer accounts in California, and is
24 interconnected to a balancing authority located outside this state
25 but within the WECC, an eligible renewable energy resource
26 includes a facility that is located outside California that is
27 connected to the WECC transmission system, if all of the following
28 conditions are met:

29 (1) The electricity generated by the facility is procured by the
30 local publicly owned electric utility, is delivered to the balancing
31 authority area in which the local publicly owned electric utility is
32 located, and is not used to fulfill renewable energy procurement
33 requirements of other states.

34 (2) The local publicly owned electric utility participates in, and
35 complies with, the accounting system administered by the Energy
36 Commission pursuant to this article.

37 (3) The Energy Commission verifies that the electricity
38 generated by the facility is eligible to meet the renewables portfolio
39 standard procurement requirements.

1 (j) Notwithstanding subdivision (a), for a local publicly owned
2 electric utility that is a joint powers authority of districts established
3 pursuant to state law on or before January 1, 2005, that furnish
4 electric services other than to residential customers, and is formed
5 pursuant to the Irrigation District Law (Division 11 (commencing
6 with Section 20500) of the Water Code), the percentage of total
7 kilowatthours sold to the district’s retail end-use customers, upon
8 which the renewables portfolio standard procurement requirements
9 in subdivision (b) are calculated, shall be based on the authority’s
10 average *net program* retail sales over the previous seven years. If
11 the authority has not furnished electric service for seven years,
12 then the calculation shall be based on average *net program* retail
13 sales over the number of completed years during which the
14 authority has provided electric service.

15 (k) A local publicly owned electric utility in a city and county
16 that only receives greater than 67 percent of its electricity sources
17 from hydroelectric generation located within the state that it owns
18 and operates, and that does not meet the definition of a “renewable
19 electrical generation facility” pursuant to Section 25741 of the
20 Public Resources Code, shall be required to procure eligible
21 renewable energy resources, including renewable energy credits,
22 to meet only the electricity demands unsatisfied by its hydroelectric
23 generation in any given year, in order to satisfy its renewable
24 energy procurement requirements.

25 (l) Each local publicly owned electric utility shall report, on an
26 annual basis, to its customers and to the Energy Commission, all
27 of the following:

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

32 (2) The resource mix used to serve its customers by energy
33 source.

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

37 (m) A local publicly owned electric utility shall retain discretion
38 over both of the following:

39 (1) The mix of eligible renewable energy resources procured
40 by the utility and those additional generation resources procured

1 by the utility for purposes of ensuring resource adequacy and
2 reliability.

3 (2) The reasonable costs incurred by the utility for eligible
4 renewable energy resources owned by the utility.

5 (n) On or before July 1, 2011, the Energy Commission shall
6 adopt regulations specifying procedures for enforcement of this
7 article. The regulations shall include a public process under which
8 the Energy Commission may issue a notice of violation and
9 correction against a local publicly owned electric utility for failure
10 to comply with this article, and for referral of violations to the
11 State Air Resources Board for penalties pursuant to subdivision
12 (o).

13 (o) (1) Upon a determination by the Energy Commission that
14 a local publicly owned electric utility has failed to comply with
15 this article, the Energy Commission shall refer the failure to comply
16 with this article to the State Air Resources Board, which may
17 impose penalties to enforce this article consistent with Part 6
18 (commencing with Section 38580) of Division 25.5 of the Health
19 and Safety Code. Any penalties imposed shall be comparable to
20 those adopted by the commission for noncompliance by retail
21 sellers.

22 (2) If Division 25.5 (commencing with Section 38500) of the
23 Health and Safety Code is suspended or repealed, the State Air
24 Resources Board may take action to enforce this article on local
25 publicly owned electric utilities consistent with Section 41513 of
26 the Health and Safety Code, and impose penalties on a local
27 publicly owned electric utility consistent with Article 3
28 (commencing with Section 42400) of Chapter 4 of Part 4 of, and
29 Chapter 1.5 (commencing with Section 43025) of Part 5 of,
30 Division 26 of the Health and Safety Code.

31 (3) For the purpose of this subdivision, this section is an
32 emissions reduction measure pursuant to Section 38580 of the
33 Health and Safety Code.

34 (4) If the State Air Resources Board has imposed a penalty upon
35 a local publicly owned electric utility for the utility's failure to
36 comply with this article, the State Air Resources Board shall not
37 impose an additional penalty for the same infraction, or the same
38 failure to comply, with any renewables procurement requirement
39 imposed upon the utility pursuant to the California Global Warming

1 Solutions Act of 2006 (Division 25.5 (commencing with Section
2 38500) of the Health and Safety Code).

3 (5) Any penalties collected by the State Air Resources Board
4 pursuant to this article shall be deposited in the Air Pollution
5 Control Fund and, upon appropriation by the Legislature, shall be
6 expended for reducing emissions of air pollution or greenhouse
7 gases within the same geographic area as the local publicly owned
8 electric utility.

9 (p) The commission has no authority or jurisdiction to enforce
10 any of the requirements of this article on a local publicly owned
11 electric utility.

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