

Introduced by Senator BlakesleeFebruary 23, 2012

An act to amend Section 454.5 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1312, as introduced, Blakeslee. Electrical corporations: procurement plans.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act requires the commission to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible and, in order to fulfill its unmet resource needs, that the electrical corporation will procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the California Renewables Portfolio Standard Program (RPS program).

This bill would recast these requirements to instead require a showing that the procurement plan creates or maintains a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reduction products pursuant to a specified loading order. The first element of the loading order would require the electrical corporation to first meet its unmet resource needs through all available energy efficiency and demand reduction resources, including

energy conservation, peak load reduction, load shifting, and demand response resources, that are cost effective, reliable, and feasible. The 2nd element of the loading order would require the electrical corporation to secondarily meet its unmet resource needs through cost effective, reliable, and feasible procurement of eligible renewable energy resources pursuant to the RPS program and ultraclean and low-emission distributed generation. The bill would recognize that procurement of variable generation eligible renewable energy resources may require the procurement of additional integration resources, including generation from natural gas powerplants that are able to provide regulation and ancillary services. The 3rd element of the loading order would be procurement of other resources.

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 454.5 of the Public Utilities Code is
2 amended to read:
3 454.5. (a) The commission shall specify the allocation of
4 electricity, including quantity, characteristics, and duration of
5 electricity delivery, that the Department of Water Resources shall
6 provide under its power purchase agreements to the customers of
7 each electrical corporation, which shall be reflected in the electrical
8 corporation's proposed procurement plan. Each electrical
9 corporation shall file a proposed procurement plan with the
10 commission not later than 60 days after the commission specifies
11 the allocation of electricity. The proposed procurement plan shall
12 specify the date that the electrical corporation intends to resume
13 procurement of electricity for its retail customers, consistent with
14 its obligation to serve. After the commission's adoption of a
15 procurement plan, the commission shall allow not less than 60
16 days before the electrical corporation resumes procurement
17 pursuant to this section.
18 (b) An electrical corporation's proposed procurement plan shall
19 include, but not be limited to, all of the following:
20 (1) An assessment of the price risk associated with the electrical
21 corporation's portfolio, including any utility-retained generation,
22 existing power purchase and exchange contracts, and proposed
23 contracts or purchases under which an electrical corporation will

1 procure electricity, electricity demand reductions, and
2 electricity-related products and the remaining open position to be
3 served by spot market transactions.

4 (2) A definition of each electricity product, electricity-related
5 product, and procurement related financial product, including
6 support and justification for the product type and amount to be
7 procured under the plan.

8 (3) The duration of the plan.

9 (4) The duration, timing, and range of quantities of each product
10 to be procured.

11 (5) A competitive procurement process under which the
12 electrical corporation may request bids for procurement-related
13 services, including the format and criteria of that procurement
14 process.

15 (6) An incentive mechanism, if any incentive mechanism is
16 proposed, including the type of transactions to be covered by that
17 mechanism, their respective procurement benchmarks, and other
18 parameters needed to determine the sharing of risks and benefits.

19 (7) The upfront standards and criteria by which the acceptability
20 and eligibility for rate recovery of a proposed procurement
21 transaction will be known by the electrical corporation prior to
22 execution of the transaction. This shall include an expedited
23 approval process for the commission's review of proposed contracts
24 and subsequent approval or rejection thereof. The electrical
25 corporation shall propose alternative procurement choices in the
26 event a contract is rejected.

27 (8) Procedures for updating the procurement plan.

28 ~~(9) A showing that the procurement plan will achieve the~~
29 ~~following:~~

30 ~~(A) The electrical corporation, in order to fulfill its unmet~~
31 ~~resource needs, shall procure resources from eligible renewable~~
32 ~~energy resources in an amount sufficient to meet its procurement~~
33 ~~requirements pursuant to the California Renewables Portfolio~~
34 ~~Standard Program (Article 16 (commencing with Section 399.11)~~
35 ~~of Chapter 2.3).~~

36 ~~(B) The electrical corporation shall create or maintain a~~
37 ~~diversified procurement portfolio consisting of both short-term~~
38 ~~and long-term electricity and electricity-related and demand~~
39 ~~reduction products.~~

1 ~~(C) The electrical corporation shall first meet its unmet resource~~
2 ~~needs through all available energy efficiency and demand reduction~~
3 ~~resources that are cost effective, reliable, and feasible.~~

4 (9) *A showing that the procurement plan creates or maintains*
5 *a diversified procurement portfolio consisting of both short-term*
6 *and long-term electricity and electricity-related and demand*
7 *reduction products pursuant to the following loading order:*

8 (A) *The electrical corporation shall first meet its unmet resource*
9 *needs through all available energy efficiency and demand reduction*
10 *resources, including energy conservation, peak load reduction,*
11 *load shifting, and demand response resources, that are cost*
12 *effective, reliable, and feasible.*

13 (B) *The electrical corporation shall secondarily meet unmet*
14 *resource needs through cost effective, reliable, and feasible*
15 *procurement of eligible renewable energy resources pursuant to*
16 *the California Renewables Portfolio Standard Program (Article*
17 *16 (commencing with Section 399.11) of Chapter 2.3), and*
18 *ultraclean and low-emission distributed generation, as defined in*
19 *Section 353.2, in furtherance of the state's goals for reducing*
20 *emissions of greenhouse gases. The procurement of variable*
21 *generation eligible renewable energy resources may require the*
22 *procurement of additional integration resources, including*
23 *generation from natural gas powerplants that are able to provide*
24 *regulation and ancillary services necessary to facilitate*
25 *achievement of the state's renewable energy goals and goals for*
26 *reducing emissions of greenhouse gases while maintaining federal*
27 *safety and reliability standards for the operation of the bulk*
28 *transmission grid.*

29 (C) *The electrical corporation shall meet any remaining unmet*
30 *resource needs not fulfilled by subparagraphs (A) and (B) through*
31 *procurement of other resources.*

32 (10) *The electrical corporation's risk management policy,*
33 *strategy, and practices, including specific measures of price*
34 *stability.*

35 (11) *A plan to achieve appropriate increases in diversity of*
36 *ownership and diversity of fuel supply of nonutility electrical*
37 *generation.*

38 (12) *A mechanism for recovery of reasonable administrative*
39 *costs related to procurement in the generation component of rates.*

1 (c) The commission shall review and accept, modify, or reject
2 each electrical corporation's procurement plan. The commission's
3 review shall consider each electrical corporation's individual
4 procurement situation, and shall give strong consideration to that
5 situation in determining which one or more of the features set forth
6 in this subdivision shall apply to that electrical corporation. A
7 procurement plan approved by the commission shall contain one
8 or more of the following features, provided that the commission
9 may not approve a feature or mechanism for an electrical
10 corporation if it finds that the feature or mechanism would impair
11 the restoration of an electrical corporation's creditworthiness or
12 would lead to a deterioration of an electrical corporation's
13 creditworthiness:

14 (1) A competitive procurement process under which the
15 electrical corporation may request bids for procurement-related
16 services. The commission shall specify the format of that
17 procurement process, as well as criteria to ensure that the auction
18 process is open and adequately subscribed. Any purchases made
19 in compliance with the commission-authorized process shall be
20 recovered in the generation component of rates.

21 (2) An incentive mechanism that establishes a procurement
22 benchmark or benchmarks and authorizes the electrical corporation
23 to procure from the market, subject to comparing the electrical
24 corporation's performance to the commission-authorized
25 benchmark or benchmarks. The incentive mechanism shall be
26 clear, achievable, and contain quantifiable objectives and standards.
27 The incentive mechanism shall contain balanced risk and reward
28 incentives that limit the risk and reward of an electrical corporation.

29 (3) Upfront achievable standards and criteria by which the
30 acceptability and eligibility for rate recovery of a proposed
31 procurement transaction will be known by the electrical corporation
32 prior to the execution of the bilateral contract for the transaction.
33 The commission shall provide for expedited review and either
34 approve or reject the individual contracts submitted by the electrical
35 corporation to ensure compliance with its procurement plan. To
36 the extent the commission rejects a proposed contract pursuant to
37 this criteria, the commission shall designate alternative procurement
38 choices obtained in the procurement plan that will be recoverable
39 for ratemaking purposes.

1 (d) A procurement plan approved by the commission shall
2 accomplish each of the following objectives:

3 (1) Enable the electrical corporation to fulfill its obligation to
4 serve its customers at just and reasonable rates.

5 (2) Eliminate the need for after-the-fact reasonableness reviews
6 of an electrical corporation's actions in compliance with an
7 approved procurement plan, including resulting electricity
8 procurement contracts, practices, and related expenses. However,
9 the commission may establish a regulatory process to verify and
10 ensure that each contract was administered in accordance with the
11 terms of the contract, and contract disputes that may arise are
12 reasonably resolved.

13 (3) Ensure timely recovery of prospective procurement costs
14 incurred pursuant to an approved procurement plan. The
15 commission shall establish rates based on forecasts of procurement
16 costs adopted by the commission, actual procurement costs
17 incurred, or combination thereof, as determined by the commission.
18 The commission shall establish power procurement balancing
19 accounts to track the differences between recorded revenues and
20 costs incurred pursuant to an approved procurement plan. The
21 commission shall review the power procurement balancing
22 accounts, not less than semiannually, and shall adjust rates or order
23 refunds, as necessary, to promptly amortize a balancing account,
24 according to a schedule determined by the commission. Until
25 January 1, 2006, the commission shall ensure that any
26 overcollection or undercollection in the power procurement
27 balancing account does not exceed 5 percent of the electrical
28 corporation's actual recorded generation revenues for the prior
29 calendar year excluding revenues collected for the Department of
30 Water Resources. The commission shall determine the schedule
31 for amortizing the overcollection or undercollection in the
32 balancing account to ensure that the 5 percent threshold is not
33 exceeded. After January 1, 2006, this adjustment shall occur when
34 deemed appropriate by the commission consistent with the
35 objectives of this section.

36 (4) Moderate the price risk associated with serving its retail
37 customers, including the price risk embedded in its long-term
38 supply contracts, by authorizing an electrical corporation to enter
39 into financial and other electricity-related product contracts.

1 (5) Provide for just and reasonable rates, with an appropriate
2 balancing of price stability and price level in the electrical
3 corporation's procurement plan.

4 (e) The commission shall provide for the periodic review and
5 prospective modification of an electrical corporation's procurement
6 plan.

7 (f) The commission may engage an independent consultant or
8 advisory service to evaluate risk management and strategy. The
9 reasonable costs of any consultant or advisory service is a
10 reimbursable expense and eligible for funding pursuant to Section
11 631.

12 (g) The commission shall adopt appropriate procedures to ensure
13 the confidentiality of any market sensitive information submitted
14 in an electrical corporation's proposed procurement plan or
15 resulting from or related to its approved procurement plan,
16 including, but not limited to, proposed or executed power purchase
17 agreements, data request responses, or consultant reports, or any
18 combination, provided that the Office of Ratepayer Advocates and
19 other consumer groups that are nonmarket participants shall be
20 provided access to this information under confidentiality
21 procedures authorized by the commission.

22 (h) Nothing in this section alters, modifies, or amends the
23 commission's oversight of affiliate transactions under its rules and
24 decisions or the commission's existing authority to investigate and
25 penalize an electrical corporation's alleged fraudulent activities,
26 or to disallow costs incurred as a result of gross incompetence,
27 fraud, abuse, or similar grounds. Nothing in this section expands,
28 modifies, or limits the State Energy Resources Conservation and
29 Development Commission's existing authority and responsibilities
30 as set forth in Sections 25216, 25216.5, and 25323 of the Public
31 Resources Code.

32 (i) An electrical corporation that serves less than 500,000 electric
33 retail customers within the state may file with the commission a
34 request for exemption from this section, which the commission
35 shall grant upon a showing of good cause.

36 (j) (1) Prior to its approval pursuant to Section 851 of any
37 divestiture of generation assets owned by an electrical corporation
38 on or after the date of enactment of the act adding this section, the
39 commission shall determine the impact of the proposed divestiture
40 on the electrical corporation's procurement rates and shall approve

1 a divestiture only to the extent it finds, taking into account the
2 effect of the divestiture on procurement rates, that the divestiture
3 is in the public interest and will result in net ratepayer benefits.

4 (2) Any electrical corporation's procurement necessitated as a
5 result of the divestiture of generation assets on or after the effective
6 date of the act adding this subdivision shall be subject to the
7 mechanisms and procedures set forth in this section only if its
8 actual cost is less than the recent historical cost of the divested
9 generation assets.

10 (3) Notwithstanding paragraph (2), the commission may deem
11 proposed procurement eligible to use the procedures in this section
12 upon its approval of asset divestiture pursuant to Section 851.