

AMENDED IN ASSEMBLY JANUARY 27, 2014  
AMENDED IN ASSEMBLY JANUARY 15, 2014  
AMENDED IN ASSEMBLY JANUARY 8, 2014  
AMENDED IN ASSEMBLY JANUARY 6, 2014  
AMENDED IN ASSEMBLY JUNE 5, 2013  
AMENDED IN ASSEMBLY APRIL 9, 2013  
AMENDED IN ASSEMBLY MARCH 21, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 177**

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**Introduced by Assembly Member V. Manuel Pérez**

January 24, 2013

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An act to add Section 25328 to the Public Resources Code, and to amend Sections 454.5, 911, and 8341 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 177, as amended, V. Manuel Pérez. Renewable energy resources: ~~Salton Sea~~ *electrical corporations: procurement plans.*

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission. The act requires the State Energy Resources Conservation and Development Commission, beginning November 1, 2003, and by November 1 of every odd year thereafter, to adopt an integrated energy policy report which includes an overview of major energy trends and issues facing the state, an assessment and

forecast of system reliability, and the need for resource additions, efficiency, and conservation. The act requires the State Energy Resources Conservation and Development Commission, beginning November 1, 2004, and by November 1 of each even year thereafter, to prepare an energy policy review to update the analyses from the integrated energy policy report or to raise energy issues that have emerged since the release of the integrated energy policy report.

The California Renewables Portfolio Standard Program, also known as the 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, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years.

This bill would require the State Energy Resources Conservation and Development Commission, in cooperation and consultation with the Public Utilities Commission, the Natural Resources Agency, and the Salton Sea Authority, to convene a stakeholders group to advise the commission on the steps that should be taken to properly develop, integrate, and transmit the electricity generated by eligible renewable energy resources located in and around the Salton Sea. The bill would require the State Energy Resources Conservation and Development Commission to hold workshops and public hearings and to include its evaluations and recommendations in the next integrated energy policy report or energy policy review update.

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act requires the Public Utilities 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. The act requires the Public Utilities Commission to review and accept, modify, or reject each electrical corporation's procurement plan and requires that each approved procurement plan accomplish specified objectives.*

*This bill would require the Public Utilities Commission to establish a value for assessing all procurement contracts for eligible renewable*

*energy resources that includes the cost of integration of those resources into the operation of the electrical grid and would authorize the commission to additionally include other values including voltage support. The bill would require that a procurement plan approved by the Public Utilities Commission accomplish the objective of providing for procurement of preferred resources in a manner that ensures electrical system reliability.*

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. The Legislature finds and declares all of the  
2 following:
- 3 (a) There are substantial high-quality eligible renewable energy  
4 resources located in and around the Salton Sea that can generate  
5 electricity in a manner that will simultaneously do all of the  
6 following:
- 7 (1) Assist in maintaining grid reliability.  
8 (2) Provide lower costs for integrating eligible renewable energy  
9 resources into the electrical grid.  
10 (3) Help meet California's renewables portfolio standard  
11 procurement requirements and requirements for reducing emissions  
12 of greenhouse gases.  
13 (4) Provide significant local and regional environmental and  
14 economic development benefits.
- 15 (b) There are similar high-quality eligible renewable energy  
16 resources located in northern California that can generate electricity  
17 in a manner that will simultaneously achieve the same benefits as  
18 would be achieved by developing those resources near the Salton  
19 Sea.
- 20 (c) The County of Imperial and the Imperial Irrigation District  
21 have signed a memorandum of understanding that pledges their  
22 mutual efforts to advance the development of eligible renewable  
23 energy resources and precious minerals extraction in the Imperial  
24 Irrigation District balancing authority area and thereby provide a  
25 funding source that will assist the state in meeting its mitigation  
26 and restoration obligations pursuant to the Quantification  
27 Settlement Agreement, as defined in subdivision (a) of Section 1

1 of Chapter 617 of the Statutes of 2002, and related and  
2 implementing agreements.

3 (d) The Natural Resources Agency, in cooperation and  
4 consultation with the Salton Sea Authority, is conducting a  
5 feasibility study that will serve as the blueprint to guide future  
6 efforts to restore the Salton Sea, develop the eligible renewable  
7 energy resources located there, and provide direction to local,  
8 regional, and state agencies responsible for the protection of the  
9 health of those who could otherwise be subjected to the detrimental  
10 air quality effects from an exposed lake bed.

11 SEC. 2. Section 25328 is added to the Public Resources Code,  
12 to read:

13 25328. (a) The commission, in cooperation and consultation  
14 with the Public Utilities Commission, the Natural Resources  
15 Agency, and the Salton Sea Authority, shall convene a stakeholders  
16 group to advise the commission on the steps that should be taken  
17 to properly develop, integrate, and transmit the electricity generated  
18 by eligible renewable energy resources, as defined in Section  
19 399.12 of the Public Utilities Code, located in and around the  
20 Salton Sea. The commission shall hold workshops and public  
21 hearings to consider the recommendations of the stakeholders  
22 group. At a minimum, the commission and stakeholders shall do  
23 all of the following:

24 (1) Consider methods to expedite transmission line development  
25 from the Imperial Irrigation District balancing authority area to  
26 utilities and regional independent system operators.

27 (2) Analyze whether state loan guarantees, loans, or state funds  
28 could be made available to assist developers of geothermal and  
29 other eligible renewable energy resources to access capital and  
30 long-term financing.

31 (3) Identify permitting issues and agencies responsible for  
32 issuing those permits.

33 (4) Analyze the feasibility of granting blanket permits to  
34 multiple geothermal project developments located near or under  
35 the existing Salton Sea.

36 (5) Analyze the effectiveness of the value for assessing  
37 procurement contracts for eligible renewable energy resources  
38 established by the Public Utilities Commission pursuant to  
39 subdivision (c) of Section 454.5 of the Public Utilities Code that  
40 includes integration of those resources into the operation of the

1 electrical grid, analyze whether the value has resulted in  
2 development of new eligible renewable energy resources located  
3 in and around the Salton Sea, and make recommendations on  
4 whether other measures are appropriate to ensure that eligible  
5 renewable energy resources are appropriately developed in and  
6 around the Salton Sea.

7 (6) Analyze the costs and the value provided by eligible  
8 renewable energy resource projects located in and around the  
9 Salton Sea that provide baseload generation.

10 (7) Assist in the framing of a pilot project to evaluate algae and  
11 solar energy facilities located on or near Salton Sea playa areas.

12 (8) Analyze the benefits and costs of rare earth extraction in  
13 consultation with the relevant state and federal agencies.

14 (b) The commission shall include its evaluations and  
15 recommendations in the next integrated energy policy report  
16 adopted pursuant to subdivisions (a), (b), and (c) of, or energy  
17 policy review update adopted pursuant to subdivision (d) of,  
18 Section 25302.

19 *SEC. 3. Section 454.5 of the Public Utilities Code is amended*  
20 *to read:*

21 454.5. (a) The commission shall specify the allocation of  
22 electricity, including quantity, characteristics, and duration of  
23 electricity delivery, that the Department of Water Resources shall  
24 provide under its power purchase agreements to the customers of  
25 each electrical corporation, which shall be reflected in the electrical  
26 corporation's proposed procurement plan. Each electrical  
27 corporation shall file a proposed procurement plan with the  
28 commission not later than 60 days after the commission specifies  
29 the allocation of electricity. The proposed procurement plan shall  
30 specify the date that the electrical corporation intends to resume  
31 procurement of electricity for its retail customers, consistent with  
32 its obligation to serve. After the commission's adoption of a  
33 procurement plan, the commission shall allow not less than 60  
34 days before the electrical corporation resumes procurement  
35 pursuant to this section.

36 (b) An electrical corporation's proposed procurement plan shall  
37 include, but not be limited to, all of the following:

38 (1) An assessment of the price risk associated with the electrical  
39 corporation's portfolio, including any utility-retained generation,  
40 existing power purchase and exchange contracts, and proposed

1 contracts or purchases under which an electrical corporation will  
2 procure electricity, electricity demand reductions, and  
3 electricity-related products and the remaining open position to be  
4 served by spot market transactions.

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

9 (3) The duration of the plan.

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

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

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

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

28 (8) Procedures for updating the procurement plan.

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

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

37 (B) The electrical corporation shall create or maintain a  
38 diversified procurement portfolio consisting of both short-term  
39 and long-term electricity and electricity-related and demand  
40 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 (10) The electrical corporation's risk management policy,  
5 strategy, and practices, including specific measures of price  
6 stability.

7 (11) A plan to achieve appropriate increases in diversity of  
8 ownership and diversity of fuel supply of nonutility electrical  
9 generation.

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

12 (c) *The commission shall establish a value for assessing all*  
13 *procurement contracts for eligible renewable energy resources*  
14 *that includes the cost of integration of those resources into the*  
15 *operation of the electrical grid. The commission may also include*  
16 *other values including, but not limited to, voltage support.*

17 (e)

18 (d) The commission shall review and accept, modify, or reject  
19 each electrical corporation's procurement plan. The commission's  
20 review shall consider each electrical corporation's individual  
21 procurement situation, and shall give strong consideration to that  
22 situation in determining which one or more of the features set forth  
23 in this subdivision shall apply to that electrical corporation. A  
24 procurement plan approved by the commission shall contain one  
25 or more of the following features, provided that the commission  
26 may not approve a feature or mechanism for an electrical  
27 corporation if it finds that the feature or mechanism would impair  
28 the restoration of an electrical corporation's creditworthiness or  
29 would lead to a deterioration of an electrical corporation's  
30 creditworthiness:

31 (1) A competitive procurement process under which the  
32 electrical corporation may request bids for procurement-related  
33 services. The commission shall specify the format of that  
34 procurement process, as well as criteria to ensure that the auction  
35 process is open and adequately subscribed. Any purchases made  
36 in compliance with the commission-authorized process shall be  
37 recovered in the generation component of rates.

38 (2) An incentive mechanism that establishes a procurement  
39 benchmark or benchmarks and authorizes the electrical corporation  
40 to procure from the market, subject to comparing the electrical

1 corporation's performance to the commission-authorized  
2 benchmark or benchmarks. The incentive mechanism shall be  
3 clear, achievable, and contain quantifiable objectives and standards.  
4 The incentive mechanism shall contain balanced risk and reward  
5 incentives that limit the risk and reward of an electrical corporation.

6 (3) Upfront achievable standards and criteria by which the  
7 acceptability and eligibility for rate recovery of a proposed  
8 procurement transaction will be known by the electrical corporation  
9 prior to the execution of the bilateral contract for the transaction.  
10 The commission shall provide for expedited review and either  
11 approve or reject the individual contracts submitted by the electrical  
12 corporation to ensure compliance with its procurement plan. To  
13 the extent the commission rejects a proposed contract pursuant to  
14 this criteria, the commission shall designate alternative procurement  
15 choices obtained in the procurement plan that will be recoverable  
16 for ratemaking purposes.

17 ~~(d)~~

18 (e) A procurement plan approved by the commission shall  
19 accomplish each of the following objectives:

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

22 (2) Eliminate the need for after-the-fact reasonableness reviews  
23 of an electrical corporation's actions in compliance with an  
24 approved procurement plan, including resulting electricity  
25 procurement contracts, practices, and related expenses. However,  
26 the commission may establish a regulatory process to verify and  
27 ensure that each contract was administered in accordance with the  
28 terms of the contract, and contract disputes that may arise are  
29 reasonably resolved.

30 (3) Ensure timely recovery of prospective procurement costs  
31 incurred pursuant to an approved procurement plan. The  
32 commission shall establish rates based on forecasts of procurement  
33 costs adopted by the commission, actual procurement costs  
34 incurred, or combination thereof, as determined by the commission.  
35 The commission shall establish power procurement balancing  
36 accounts to track the differences between recorded revenues and  
37 costs incurred pursuant to an approved procurement plan. The  
38 commission shall review the power procurement balancing  
39 accounts, not less than semiannually, and shall adjust rates or order  
40 refunds, as necessary, to promptly amortize a balancing account,

1 according to a schedule determined by the commission. Until  
2 January 1, 2006, the commission shall ensure that any  
3 overcollection or undercollection in the power procurement  
4 balancing account does not exceed 5 percent of the electrical  
5 corporation's actual recorded generation revenues for the prior  
6 calendar year excluding revenues collected for the Department of  
7 Water Resources. The commission shall determine the schedule  
8 for amortizing the overcollection or undercollection in the  
9 balancing account to ensure that the 5 percent threshold is not  
10 exceeded. After January 1, 2006, this adjustment shall occur when  
11 deemed appropriate by the commission consistent with the  
12 objectives of this section.

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

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

20 (6) *Provide for procurement of preferred resources in a manner*  
21 *that ensures electrical system reliability.*

22 ~~(e)~~

23 (f) The commission shall provide for the periodic review and  
24 prospective modification of an electrical corporation's procurement  
25 plan.

26 ~~(f)~~

27 (g) The commission may engage an independent consultant or  
28 advisory service to evaluate risk management and strategy. The  
29 reasonable costs of any consultant or advisory service is a  
30 reimbursable expense and eligible for funding pursuant to Section  
31 631.

32 ~~(g)~~

33 (h) The commission shall adopt appropriate procedures to ensure  
34 the confidentiality of any market sensitive information submitted  
35 in an electrical corporation's proposed procurement plan or  
36 resulting from or related to its approved procurement plan,  
37 including, but not limited to, proposed or executed power purchase  
38 agreements, data request responses, or consultant reports, or any  
39 combination, provided that the Office of Ratepayer Advocates and  
40 other consumer groups that are nonmarket participants shall be

1 provided access to this information under confidentiality  
 2 procedures authorized by the commission.

3 ~~(h)~~

4 (i) Nothing in this section alters, modifies, or amends the  
 5 commission’s oversight of affiliate transactions under its rules and  
 6 decisions or the commission’s existing authority to investigate and  
 7 penalize an electrical corporation’s alleged fraudulent activities,  
 8 or to disallow costs incurred as a result of gross incompetence,  
 9 fraud, abuse, or similar grounds. Nothing in this section expands,  
 10 modifies, or limits the State Energy Resources Conservation and  
 11 Development Commission’s existing authority and responsibilities  
 12 as set forth in Sections 25216, 25216.5, and 25323 of the Public  
 13 Resources Code.

14 ~~(i)~~

15 (j) An electrical corporation that serves less than 500,000 electric  
 16 retail customers within the state may file with the commission a  
 17 request for exemption from this section, which the commission  
 18 shall grant upon a showing of good cause.

19 ~~(j)~~

20 (k) (1) Prior to its approval pursuant to Section 851 of any  
 21 divestiture of generation assets owned by an electrical corporation  
 22 on or after the date of enactment of the act adding this section, the  
 23 commission shall determine the impact of the proposed divestiture  
 24 on the electrical corporation’s procurement rates and shall approve  
 25 a divestiture only to the extent it finds, taking into account the  
 26 effect of the divestiture on procurement rates, that the divestiture  
 27 is in the public interest and will result in net ratepayer benefits.

28 (2) Any electrical corporation’s procurement necessitated as a  
 29 result of the divestiture of generation assets on or after the effective  
 30 date of the act adding this subdivision shall be subject to the  
 31 mechanisms and procedures set forth in this section only if its  
 32 actual cost is less than the recent historical cost of the divested  
 33 generation assets.

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

37 *SEC. 4. Section 911 of the Public Utilities Code is amended*  
 38 *to read:*

39 911. (a) Notwithstanding subdivision ~~(g)~~ (h) of Section 454.5  
 40 and Section 583, no later than February 1, 2012, and annually

1 thereafter, the commission shall release to the Legislature the costs  
2 of all electricity procurement contracts for eligible renewable  
3 energy resources, including unbundled renewable energy credits,  
4 and all costs for utility-owned generation approved by the  
5 commission. The first report shall include all costs commencing  
6 January 1, 2003. Subsequent reports shall include only costs for  
7 the preceding calendar year.

8 (1) For power purchase contracts, the commission shall release  
9 costs in an aggregated form categorized according to the year the  
10 procurement transaction was approved by the commission, the  
11 eligible renewable energy resource type, including bundled  
12 renewable energy credits, the average executed contract price, and  
13 average actual recorded costs for each kilowatthour of production.  
14 Within each renewable energy resource type, the commission shall  
15 provide aggregated costs for different project size thresholds.

16 (2) For each utility-owned renewable generation project, the  
17 commission shall release the costs forecast by the electrical  
18 corporation at the time of initial approval and the actual recorded  
19 costs for each kilowatthour of production during the preceding  
20 calendar year.

21 (b) This section does not require the release of the terms of any  
22 individual electricity procurement contracts for eligible renewable  
23 energy resources, including unbundled renewable energy credits,  
24 approved by the commission. The commission shall aggregate  
25 data to the extent required to ensure protection of the confidentiality  
26 of individual contract costs even if this aggregation requires  
27 grouping contracts of different energy resource type. The  
28 commission shall not be required to release the data in any year  
29 when there are fewer than three contracts approved.

30 (c) The commission may combine the information required by  
31 this section with the report prepared pursuant to Section 910, as  
32 added by Chapter 1 of the First Extraordinary Session of the  
33 Statutes of 2011.

34 *SEC. 5. Section 8341 of the Public Utilities Code is amended*  
35 *to read:*

36 8341. (a) No load-serving entity or local publicly owned  
37 electric utility may enter into a long-term financial commitment  
38 unless any baseload generation supplied under the long-term  
39 financial commitment complies with the greenhouse gases emission  
40 performance standard established by the commission, pursuant to

1 subdivision (d), for a load-serving entity, or by the Energy  
2 Commission, pursuant to subdivision (e), for a local publicly owned  
3 electric utility.

4 (b) (1) The commission shall not approve a long-term financial  
5 commitment by an electrical corporation unless any baseload  
6 generation supplied under the long-term financial commitment  
7 complies with the greenhouse gases emission performance standard  
8 established by the commission pursuant to subdivision (d).

9 (2) The commission may, in order to enforce this section, review  
10 any long-term financial commitment proposed to be entered into  
11 by an electric service provider or a community choice aggregator.

12 (3) The commission shall adopt rules to enforce the requirements  
13 of this section, for load-serving entities. The commission shall  
14 adopt procedures, for all load-serving entities, to verify the  
15 emissions of greenhouse gases from any baseload generation  
16 supplied under a contract subject to the greenhouse gases emission  
17 performance standard to ensure compliance with the standard.

18 (4) In determining whether a long-term financial commitment  
19 is for baseload generation, the commission shall consider the design  
20 of the powerplant and the intended use of the powerplant, as  
21 determined by the commission based upon the electricity purchase  
22 contract, any certification received from the Energy Commission,  
23 any other permit or certificate necessary for the operation of the  
24 powerplant, including a certificate of public convenience and  
25 necessity, any procurement approval decision for the load-serving  
26 entity, and any other matter the commission determines is relevant  
27 under the circumstances.

28 (5) Costs incurred by an electrical corporation to comply with  
29 this section, including those costs incurred for electricity purchase  
30 agreements that are approved by the commission that comply with  
31 the greenhouse gases emission performance standard, are to be  
32 treated as procurement costs incurred pursuant to an approved  
33 procurement plan and the commission shall ensure timely cost  
34 recovery of those costs pursuant to paragraph (3) of subdivision  
35 ~~(d)~~ (e) of Section 454.5.

36 (6) A long-term financial commitment entered into through a  
37 contract approved by the commission, for electricity generated by  
38 a zero- or low-carbon generating resource that is contracted for,  
39 on behalf of consumers of this state on a cost-of-service basis,  
40 shall be recoverable in rates, in a manner determined by the

1 commission consistent with Section 380. The commission may,  
2 after a hearing, approve an increase from one-half to 1 percent in  
3 the return on investment by the third party entering into the contract  
4 with an electrical corporation with respect to investment in zero-  
5 or low-carbon generation resources authorized pursuant to this  
6 subdivision.

7 (c) (1) The Energy Commission shall adopt regulations for the  
8 enforcement of this chapter with respect to a local publicly owned  
9 electric utility.

10 (2) The Energy Commission may, in order to ensure compliance  
11 with the greenhouse gases emission performance standard by local  
12 publicly owned electric utilities, apply the procedures adopted by  
13 the commission to verify the emissions of greenhouse gases from  
14 baseload generation pursuant to subdivision (b).

15 (3) In determining whether a long-term financial commitment  
16 is for baseload generation, the Energy Commission shall consider  
17 the design of the powerplant and the intended use of the  
18 powerplant, as determined by the Energy Commission based upon  
19 the electricity purchase contract, any certification received from  
20 the Energy Commission, any other permit for the operation of the  
21 powerplant, any procurement approval decision for the load-serving  
22 entity, and any other matter the Energy Commission determines  
23 is relevant under the circumstances.

24 (d) (1) On or before February 1, 2007, the commission, through  
25 a rulemaking proceeding, and in consultation with the Energy  
26 Commission and the State Air Resources Board, shall establish a  
27 greenhouse gases emission performance standard for all baseload  
28 generation of load-serving entities, at a rate of emissions of  
29 greenhouse gases that is no higher than the rate of emissions of  
30 greenhouse gases for combined-cycle natural gas baseload  
31 generation. Enforcement of the greenhouse gases emission  
32 performance standard shall begin immediately upon the  
33 establishment of the standard. All combined-cycle natural gas  
34 powerplants that are in operation, or that have an Energy  
35 Commission final permit decision to operate as of June 30, 2007,  
36 shall be deemed to be in compliance with the greenhouse gases  
37 emission performance standard.

38 (2) In determining the rate of emissions of greenhouse gases  
39 for baseload generation, the commission shall include the net

1 emissions resulting from the production of electricity by the  
2 baseload generation.

3 (3) The commission shall establish an output-based methodology  
4 to ensure that the calculation of emissions of greenhouse gases for  
5 cogeneration recognizes the total usable energy output of the  
6 process, and includes all greenhouse gases emitted by the facility  
7 in the production of both electrical and thermal energy.

8 (4) In calculating the emissions of greenhouse gases by facilities  
9 generating electricity from biomass, biogas, or landfill gas energy,  
10 the commission shall consider net emissions from the process of  
11 growing, processing, and generating the electricity from the fuel  
12 source.

13 (5) Carbon dioxide that is injected in geological formations, so  
14 as to prevent releases into the atmosphere, in compliance with  
15 applicable laws and regulations shall not be counted as emissions  
16 of the powerplant in determining compliance with the greenhouse  
17 gases emissions performance standard.

18 (6) In adopting and implementing the greenhouse gases emission  
19 performance standard, the commission, in consultation with the  
20 Independent System Operator shall consider the effects of the  
21 standard on system reliability and overall costs to electricity  
22 customers.

23 (7) In developing and implementing the greenhouse gases  
24 emission performance standard, the commission shall address  
25 long-term purchases of electricity from unspecified sources in a  
26 manner consistent with this chapter.

27 (8) In developing and implementing the greenhouse gases  
28 emission performance standard, the commission shall consider  
29 and act in a manner consistent with any rules adopted pursuant to  
30 Section 824a-3 of Title 16 of the United States Code.

31 (9) An electrical corporation that provides electric service to  
32 75,000 or fewer retail end-use customers in California may file  
33 with the commission a proposal for alternative compliance with  
34 this section, which the commission may accept upon a showing  
35 by the electrical corporation of both of the following:

36 (A) A majority of the electrical corporation's retail end-use  
37 customers for electric service are located outside of California.

38 (B) The emissions of greenhouse gases to generate electricity  
39 for the retail end-use customers of the electrical corporation are  
40 subject to a review by the utility regulatory commission of at least

1 one other state in which the electrical corporation provides  
2 regulated retail electric service.

3 (e) (1) On or before June 30, 2007, the Energy Commission,  
4 at a duly noticed public hearing and in consultation with the  
5 commission and the State Air Resources Board, shall establish a  
6 greenhouse gases emission performance standard for all baseload  
7 generation of local publicly owned electric utilities at a rate of  
8 emissions of greenhouse gases that is no higher than the rate of  
9 emissions of greenhouse gases for combined-cycle natural gas  
10 baseload generation. The greenhouse gases emission performance  
11 standard established by the Energy Commission for local publicly  
12 owned electric utilities shall be consistent with the standard adopted  
13 by the commission for load-serving entities. Enforcement of the  
14 greenhouse gases emission performance standard shall begin  
15 immediately upon the establishment of the standard. All  
16 combined-cycle natural gas powerplants that are in operation, or  
17 that have an Energy Commission final permit decision to operate  
18 as of June 30, 2007, shall be deemed to be in compliance with the  
19 greenhouse gases emission performance standard.

20 (2) The greenhouse gases emission performance standard shall  
21 be adopted by regulation pursuant to the Administrative Procedure  
22 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
23 Division 3 of Title 2 of the Government Code).

24 (3) In determining the rate of emissions of greenhouse gases  
25 for baseload generation, the Energy Commission shall include the  
26 net emissions resulting from the production of electricity by the  
27 baseload generation.

28 (4) The Energy Commission shall establish an output-based  
29 methodology to ensure that the calculation of emissions of  
30 greenhouse gases for cogeneration recognizes the total usable  
31 energy output of the process, and includes all greenhouse gases  
32 emitted by the facility in the production of both electrical and  
33 thermal energy.

34 (5) In calculating the emissions of greenhouse gases by facilities  
35 generating electricity from biomass, biogas, or landfill gas energy,  
36 the Energy Commission shall consider net emissions from the  
37 process of growing, processing, and generating the electricity from  
38 the fuel source.

39 (6) Carbon dioxide that is captured from the emissions of a  
40 powerplant and that is permanently disposed of in geological

1 formations in compliance with applicable laws and regulations,  
2 shall not be counted as emissions from the powerplant.

3 (7) In adopting and implementing the greenhouse gases emission  
4 performance standard, the Energy Commission, in consultation  
5 with the Independent System Operator, shall consider the effects  
6 of the standard on system reliability and overall costs to electricity  
7 customers.

8 (8) In developing and implementing the greenhouse gases  
9 emission performance standard, the Energy Commission shall  
10 address long-term purchases of electricity from unspecified sources  
11 in a manner consistent with this chapter.

12 (9) In developing and implementing the greenhouse gases  
13 emission performance standard, the Energy Commission shall  
14 consider and act in a manner consistent with any rules adopted  
15 pursuant to Section 824a-3 of Title 16 of the United States Code.

16 (f) The Energy Commission, in a duly noticed public hearing  
17 and in consultation with the commission and the State Air  
18 Resources Board, shall reevaluate and continue, modify, or replace  
19 the greenhouse gases emission performance standard when an  
20 enforceable greenhouse gases emissions limit is established and  
21 in operation, that is applicable to local publicly owned electric  
22 utilities.

23 (g) The commission, through a rulemaking proceeding and in  
24 consultation with the Energy Commission and the State Air  
25 Resources Board, shall reevaluate and continue, modify, or replace  
26 the greenhouse gases emission performance standard when an  
27 enforceable greenhouse gases emissions limit is established and  
28 in operation, that is applicable to load-serving entities.