

AMENDED IN SENATE MAY 8, 2013
AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 43

Introduced by Senator Wolk
(Coauthors: Senators Corbett and Pavley)
(Coauthors: Assembly Members Levine, Skinner, and Williams)

December 11, 2012

An act to amend Section 25019 of the Corporations Code, and to amend Sections 216 and 218 of, ~~to repeal Section 2826.5 of, and to repeal and add Chapter 7.5 (commencing with Section 2830) of~~ *and to add Chapter 7.6 (commencing with Section 2831) to* Part 2 of Division 1 ~~of of~~, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Wolk. ~~Shared renewable energy self-generation program.~~ *Renewable Energy Self-Generation Program.*

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, the local government renewable energy self-generation program authorizes a local government, as defined, to receive a bill credit, as defined, to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

This bill would ~~repeal the local government renewable energy self-generation program and~~ enact the Shared Renewable Energy

Self-Generation Program. The program would authorize a retail customer of an electrical corporation to acquire an interest, as defined, in a shared renewable energy facility, as defined, for the purpose of receiving a bill credit, as defined, to offset all or a portion of the customer's electricity usage, consistent with specified requirements.

The bill would provide that any corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in, a shared renewable energy facility is not a public utility or electrical corporation solely by reason of engaging in any of those activities.

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

~~(3) Existing law authorizes the City of Davis to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a photovoltaic electricity generation facility located within, and partially owned by, the city, referred to as the PVUSA solar facility, and requires the commission to adopt a rate tariff for the benefiting account.~~

~~This bill would repeal these provisions relating to the City of Davis, but would require a shared renewable energy facility to be either the PVUSA facility or a newly constructed renewable facility constructed pursuant to the Shared Renewable Energy Self-Generation Program that begins commercial operation on or after June 1, 2014.~~

~~(4)~~

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 25019 of the Corporations Code is
2 amended to read:

3 25019. (a) “Security” means any note; stock; treasury stock;
4 membership in an incorporated or unincorporated association;
5 bond; debenture; evidence of indebtedness; certificate of interest
6 or participation in any profit-sharing agreement; collateral trust
7 certificate; preorganization certificate or subscription; transferable
8 share; investment contract; viatical settlement contract or a
9 fractionalized or pooled interest therein; life settlement contract
10 or a fractionalized or pooled interest therein; voting trust certificate;
11 certificate of deposit for a security; interest in a limited liability
12 company and any class or series of those interests (including any
13 fractional or other interest in that interest), except a membership
14 interest in a limited liability company in which the person claiming
15 this exception can prove that all of the members are actively
16 engaged in the management of the limited liability company;
17 provided that evidence that members vote or have the right to vote,
18 or the right to information concerning the business and affairs of
19 the limited liability company, or the right to participate in
20 management, shall not establish, without more, that all members
21 are actively engaged in the management of the limited liability
22 company; certificate of interest or participation in an oil, gas, or
23 mining title or lease or in payments out of production under that
24 title or lease; put, call, straddle, option, or privilege on any security,
25 certificate of deposit, or group or index of securities (including
26 any interest therein or based on the value thereof); or any put, call,
27 straddle, option, or privilege entered into on a national securities
28 exchange relating to foreign currency; any beneficial interest or
29 other security issued in connection with a funded employees’
30 pension, profit sharing, stock bonus, or similar benefit plan; or, in
31 general, any interest or instrument commonly known as a
32 “security”; or any certificate of interest or participation in,
33 temporary or interim certificate for, receipt for, guarantee of, or
34 warrant or right to subscribe to or purchase, any of the foregoing.
35 All of the foregoing are securities whether or not evidenced by a
36 written document.

37 (b) “Security” does not include: (1) any beneficial interest in
38 any voluntary inter vivos trust which is not created for the purpose

1 of carrying on any business or solely for the purpose of voting, (2)
2 any beneficial interest in any testamentary trust, (3) any insurance
3 or endowment policy or annuity contract under which an insurance
4 company admitted in this state promises to pay a sum of money
5 (whether or not based upon the investment performance of a
6 segregated fund) either in a lump sum or periodically for life or
7 some other specified period, (4) any franchise subject to registration
8 under the Franchise Investment Law (Division 5 (commencing
9 with Section 31000)), or exempted from registration by Section
10 31100 or 31101, or (5) any right to a bill credit or interest of a
11 participant in a community renewable energy facility pursuant to
12 Chapter 7.5 (commencing with Section 2830) of Part 2 of Division
13 1 of the Public Utilities Code.

14 SEC. 2. Section 216 of the Public Utilities Code is amended
15 to read:

16 216. (a) "Public utility" includes every common carrier, toll
17 bridge corporation, pipeline corporation, gas corporation, electrical
18 corporation, telephone corporation, telegraph corporation, water
19 corporation, sewer system corporation, and heat corporation, where
20 the service is performed for, or the commodity is delivered to, the
21 public or any portion thereof.

22 (b) Whenever any common carrier, toll bridge corporation,
23 pipeline corporation, gas corporation, electrical corporation,
24 telephone corporation, telegraph corporation, water corporation,
25 sewer system corporation, or heat corporation performs a service
26 for, or delivers a commodity to, the public or any portion thereof
27 for which any compensation or payment whatsoever is received,
28 that common carrier, toll bridge corporation, pipeline corporation,
29 gas corporation, electrical corporation, telephone corporation,
30 telegraph corporation, water corporation, sewer system corporation,
31 or heat corporation, is a public utility subject to the jurisdiction,
32 control, and regulation of the commission and the provisions of
33 this part.

34 (c) When any person or corporation performs any service for,
35 or delivers any commodity to, any person, private corporation,
36 municipality, or other political subdivision of the state, that in turn
37 either directly or indirectly, mediately or immediately, performs
38 that service for, or delivers that commodity to, the public or any
39 portion thereof, that person or corporation is a public utility subject

1 to the jurisdiction, control, and regulation of the commission and
2 the provisions of this part.

3 (d) Ownership or operation of a facility that employs
4 cogeneration technology or produces power from other than a
5 conventional power source or the ownership or operation of a
6 facility which employs landfill gas technology does not make a
7 corporation or person a public utility within the meaning of this
8 section solely because of the ownership or operation of that facility.

9 (e) Any corporation or person engaged directly or indirectly in
10 developing, producing, transmitting, distributing, delivering, or
11 selling any form of heat derived from geothermal or solar resources
12 or from cogeneration technology to any privately owned or publicly
13 owned public utility, or to the public or any portion thereof, is not
14 a public utility within the meaning of this section solely by reason
15 of engaging in any of those activities.

16 (f) The ownership or operation of a facility that sells compressed
17 natural gas at retail to the public for use only as a motor vehicle
18 fuel, and the selling of compressed natural gas at retail from that
19 facility to the public for use only as a motor vehicle fuel, does not
20 make the corporation or person a public utility within the meaning
21 of this section solely because of that ownership, operation, or sale.

22 (g) Ownership or operation of a facility that is an exempt
23 wholesale generator, as defined in the Public Utility Holding
24 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make
25 a corporation or person a public utility within the meaning of this
26 section, solely due to the ownership or operation of that facility.

27 (h) The ownership, control, operation, or management of an
28 electric plant used for direct transactions or participation directly
29 or indirectly in direct transactions, as permitted by subdivision (b)
30 of Section 365, sales into a market established and operated by the
31 Independent System Operator or any other wholesale electricity
32 market, or the use or sale as permitted under subdivisions (b) to
33 (d), inclusive, of Section 218, shall not make a corporation or
34 person a public utility within the meaning of this section solely
35 because of that ownership, participation, or sale.

36 (i) The ownership, control, operation, or management of a
37 facility that supplies electricity to the public only for use to charge
38 light duty plug-in electric vehicles does not make the corporation
39 or person a public utility within the meaning of this section solely
40 because of that ownership, control, operation, or management. For

1 purposes of this subdivision, “light duty plug-in electric vehicles”
2 includes light duty battery electric and plug-in hybrid electric
3 vehicles. This subdivision does not affect the commission’s
4 authority under Section 454 or 740.2 or any other applicable statute.

5 (j) A corporation or person engaged directly or indirectly in
6 developing, owning, producing, delivering, participating in, or
7 selling interests in a shared renewable energy facility, pursuant to
8 Chapter 7.5 (commencing with Section 2830) of Part 2, is not a
9 public utility within the meaning of this section solely by reason
10 of engaging in any of those activities.

11 SEC. 3. Section 218 of the Public Utilities Code is amended
12 to read:

13 218. (a) “Electrical corporation” includes every corporation
14 or person owning, controlling, operating, or managing any electric
15 plant for compensation within this state, except where electricity
16 is generated on or distributed by the producer through private
17 property solely for its own use or the use of its tenants and not for
18 sale or transmission to others.

19 (b) “Electrical corporation” does not include a corporation or
20 person employing cogeneration technology or producing power
21 from other than a conventional power source for the generation of
22 electricity solely for any one or more of the following purposes:

23 (1) Its own use or the use of its tenants.

24 (2) The use of or sale to not more than two other corporations
25 or persons solely for use on the real property on which the
26 electricity is generated or on real property immediately adjacent
27 thereto, unless there is an intervening public street constituting the
28 boundary between the real property on which the electricity is
29 generated and the immediately adjacent property and one or more
30 of the following applies:

31 (A) The real property on which the electricity is generated and
32 the immediately adjacent real property is not under common
33 ownership or control, or that common ownership or control was
34 gained solely for purposes of sale of the electricity so generated
35 and not for other business purposes.

36 (B) The useful thermal output of the facility generating the
37 electricity is not used on the immediately adjacent property for
38 petroleum production or refining.

1 (C) The electricity furnished to the immediately adjacent
2 property is not utilized by a subsidiary or affiliate of the corporation
3 or person generating the electricity.

4 (3) Sale or transmission to an electrical corporation or state or
5 local public agency, but not for sale or transmission to others,
6 unless the corporation or person is otherwise an electrical
7 corporation.

8 (c) “Electrical corporation” does not include a corporation or
9 person employing landfill gas technology for the generation of
10 electricity for any one or more of the following purposes:

11 (1) Its own use or the use of not more than two of its tenants
12 located on the real property on which the electricity is generated.

13 (2) The use of or sale to not more than two other corporations
14 or persons solely for use on the real property on which the
15 electricity is generated.

16 (3) Sale or transmission to an electrical corporation or state or
17 local public agency.

18 (d) “Electrical corporation” does not include a corporation or
19 person employing digester gas technology for the generation of
20 electricity for any one or more of the following purposes:

21 (1) Its own use or the use of not more than two of its tenants
22 located on the real property on which the electricity is generated.

23 (2) The use of or sale to not more than two other corporations
24 or persons solely for use on the real property on which the
25 electricity is generated.

26 (3) Sale or transmission to an electrical corporation or state or
27 local public agency, if the sale or transmission of the electricity
28 service to a retail customer is provided through the transmission
29 system of the existing local publicly owned electric utility or
30 electrical corporation of that retail customer.

31 (e) “Electrical corporation” does not include an independent
32 solar energy producer, as defined in Article 3 (commencing with
33 Section 2868) of Chapter 9 of Part 2.

34 (f) The amendments made to this section at the 1987 portion of
35 the 1987–88 Regular Session of the Legislature do not apply to
36 any corporation or person employing cogeneration technology or
37 producing power from other than a conventional power source for
38 the generation of electricity that physically produced electricity
39 prior to January 1, 1989, and furnished that electricity to

1 immediately adjacent real property for use thereon prior to January
2 1, 1989.

3 (g) A corporation or person engaged directly or indirectly in
4 developing, owning, producing, delivering, participating in, or
5 selling interests in a shared renewable energy facility, pursuant to
6 Chapter 7.5 (commencing with Section 2830) of Part 2, is not an
7 electrical corporation within the meaning of this section solely by
8 reason of engaging in any of those activities.

9 ~~SEC. 4. Section 2826.5 of the Public Utilities Code is repealed.~~

10 ~~SEC. 5. Chapter 7.5 (commencing with Section 2830) of Part~~
11 ~~2 of Division 1 of the Public Utilities Code is repealed.~~

12 ~~SEC. 6.~~

13 ~~SEC. 4. Chapter 7.5 7.6 (commencing with Section 2830) 2831)~~
14 is added to Part 2 of Division 1 of the Public Utilities Code, to
15 read:

16
17 CHAPTER ~~7.5~~7.6. SHARED RENEWABLE ENERGY
18 SELF-GENERATION PROGRAM

19
20 ~~2830.~~

21 ~~2831.~~ The Legislature finds and declares all of the following:

22 (a) The creation of renewable energy within California provides
23 significant financial, health, environmental, and workforce benefits
24 to the State of California.

25 (b) The California Solar Initiative has been extremely successful,
26 resulting in over 140,000 residential and commercial onsite
27 installations of solar energy systems. However, it cannot reach all
28 residents and businesses that want to participate and is limited to
29 solar. The Shared Renewable Energy Self-Generation Program
30 seeks to build on this success by expanding access to renewable
31 energy resources to all ratepayers who are currently unable to
32 access the benefits of onsite generation.

33 (c) The Governor has proposed the Clean Energy Jobs Plan
34 calling for the development of 12,000 megawatts of generation
35 from distributed renewable energy resources of up to 20 megawatts
36 in size by 2020. There is widespread interest from many large
37 institutional customers, including schools, colleges, universities,
38 local governments, businesses, and the military, for development
39 of renewable generation facilities to serve more than 33 percent
40 of their energy needs. For these reasons, the Legislature agrees

1 that the Governor’s Clean Energy Jobs Plan represents a desired
2 policy direction for the state. It is the intent of the Legislature that
3 renewable generation that comes online as part of the Shared
4 Renewable Energy Self-Generation Program is counted toward an
5 electrical corporation’s efforts to implement the Governor’s Clean
6 Energy Jobs Plan.

7 (d) Properly designed, shared renewable energy programs can
8 provide access and cost savings to underserved communities, such
9 as low- to moderate-income residents, and residential and
10 commercial renters, while not shifting costs to nonbeneficiaries.

11 (e) While municipal utilities already have the authority to create
12 their own shared renewable energy programs, only an act of the
13 Legislature can empower the vast majority of California residents
14 to be able to enjoy the significant benefits of shared renewable
15 energy ~~systems~~, *systems*, while the state benefits from avoided
16 transmission and distribution upgrades, avoided line loss, and
17 cleaner air and water.

18 (f) Public institutions will benefit from the Shared Renewable
19 Energy Self-Generation Program’s enhanced flexibility to
20 participate in shared renewable energy facilities. Electricity usage
21 is one of the most significant cost pressures facing public
22 institutions at a time when they have been forced to cut essential
23 programs, increase classroom sizes, and lay off teachers. Schools
24 may use the savings for restoring funds for salaries, facility
25 maintenance, and other budgetary needs.

26 (g) Shared renewable energy self-generation creates jobs,
27 reduces emissions of greenhouse gases, and promotes energy
28 independence.

29 (h) Many large energy users in California have pursued onsite
30 renewable energy generation, but cannot achieve their goals due
31 to rooftop or land space limitations, or size limits on net metering.
32 The enactment of this chapter will create a mechanism whereby
33 institutional customers such as military installations, universities,
34 and local governments, as well as commercial customers and
35 groups of individuals, can efficiently invest in generating electricity
36 from renewable generation.

37 (i) Therefore, it is the intent of the Legislature that this program
38 be implemented in such a manner as to create a large, sustainable
39 market for the purchase of an interest in offsite renewable

1 generation, while fairly compensating electrical corporations for
2 the services they provide.

3 (j) It is the further intent of the Legislature to preserve a thriving,
4 sustainable agricultural industry, and to ensure that the
5 development of renewable energy does not remove prime farmland
6 from productive use without a comprehensive public review
7 process.

8 (k) It is further the intent of the Legislature that the commission
9 minimize the rate impact the Shared Renewable Energy
10 Self-Generation Program has on nonbeneficiaries, with a goal of
11 ratepayer indifference. To the extent that the program imposes
12 incremental increases in rates, the commission shall determine the
13 appropriate way to allocate costs, which may include equitable
14 allocation of costs to all customers on a nonbypassable basis.

15 ~~2832.~~

16 2832. As used in this chapter, the following terms have the
17 following meanings:

18 (a) “Benefiting account” means one or more electricity accounts
19 designated to receive a bill credit pursuant to Section 2834 and
20 mutually agreed upon by the facility provider and an electrical
21 corporation.

22 (b) “Bill credit” means an amount of money credited each
23 month, or in an otherwise applicable billing period, to one or more
24 benefiting accounts based on the amount of the electrical output
25 of a shared renewable energy facility that is assigned to the account
26 pursuant to the methodology described in Section 2834.

27 (c) “Default load aggregation point price” means a
28 commission-determined day-ahead price for electricity.

29 (d) “Energy component” means the generation portion of a
30 customer’s otherwise applicable tariff and any other portion of the
31 customer’s charges that the commission determines may be
32 appropriate to offset without resulting in a net cost shift to
33 nonbeneficiaries.

34 (e) “Facility rate” means the per kilowatthour rate assigned to
35 each facility built under the program, used to calculate the bill
36 credit pursuant to the method described in paragraphs (1) to (3),
37 inclusive, of subdivision (b) of Section 2834.

38 (f) “Interest” means a direct or indirect ownership, lease,
39 subscription, or financing interest in a shared renewable energy

1 facility that enables the participant to receive a bill credit for a
2 retail account with the electrical corporation.

3 (g) “Local government” means a city, county, city and county,
4 special district, school district, public water district, public
5 irrigation district, county office of education, political subdivision,
6 or other local governmental entity. For the purposes of this chapter,
7 “water district” has the same meaning as defined in Section 20200
8 of the Water Code, and “irrigation district” means an entity formed
9 pursuant to the Irrigation District Law set forth in Division 11
10 (commencing with Section 20500) of the Water Code.

11 (h) “Participant” means a retail customer of an electrical
12 corporation who owns, leases, finances, or subscribes to an interest
13 in a shared renewable energy facility and who has designated one
14 or more of its own retail accounts as a benefiting account to which
15 the interest shall be attributed.

16 (i) “Participant account” means a retail customer account with
17 an electrical corporation to which a participant’s interest in a shared
18 renewable energy facility shall be attributed.

19 (j) “Provider” means any entity whose purpose is to beneficially
20 own or operate a shared renewable energy facility for the
21 participants or owners of that facility, or to market an interest in
22 the facility.

23 (k) “Program” means the Shared Renewable Energy
24 Self-Generation Program established pursuant to this chapter.

25 (l) “Project” means the cumulative activities to build and make
26 operational a shared renewable energy facility.

27 (m) “Renewable energy credit” has the same meaning as defined
28 in Section 399.12.

29 (n) “Shared renewable energy facility” means a facility for the
30 generation of electricity that meets all of the following
31 requirements:

32 (1) Has a nameplate generating capacity of no more than 20
33 megawatts of alternating current.

34 (2) Is an eligible renewable energy resource pursuant to the
35 California Renewables Portfolio Standard Program (Article 16
36 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

37 (3) Has its electrical output measured by a production meter
38 owned by the electrical corporation, that meets the tariff
39 requirements of the electrical corporation and the Independent

1 System Operator, and that independently measures the electricity
2 delivered to the grid by the facility.

3 (4) Is located within the service territory of a California electrical
4 corporation.

5 (5) Has been interconnected with the electrical grid in
6 compliance with the tariffs of the applicable interconnection
7 authority.

8 (6) Is either the PVUSA facility, meaning the photovoltaic
9 electricity generation facility selected by the City of Davis and
10 located at 24662 County Road, Davis, California, or is a newly
11 constructed renewable facility constructed pursuant to this chapter,
12 beginning commercial operation on or after June 1, 2014.

13 (7) The provider has, where applicable, complied with all
14 program rules and written notice procedures that may be required
15 by the commission.

16 ~~2834.~~

17 2833. (a) (1) A retail customer of an electrical corporation
18 having 100,000 or more service connections within the state may
19 acquire an interest in a shared renewable energy facility for the
20 purpose of becoming a participant and shall designate one or more
21 benefiting accounts to which the interest shall be attributed.

22 (2) To be eligible to be designated as a benefiting account, the
23 account shall be for service to premises located within the
24 geographical boundaries of the service territory of the electrical
25 corporation containing the shared renewable energy facility.

26 (3) The participating customer’s bill credit may be used to offset
27 all or a portion of the energy component of that customer’s
28 electrical service, as provided in this chapter and in accordance
29 with those rules that the commission may adopt.

30 (4) A participant shall not acquire an interest in a shared
31 renewable energy facility that represents more than two megawatts
32 of generating capacity or the equivalent amount, as denominated
33 in kilowatthours of energy. This limitation does not apply to a
34 federal, state, or local government, school, school district, county
35 office of education, the California Community Colleges, the
36 California State University, or the University of California.

37 (b) The commission shall establish a facility rate for all shared
38 renewable energy facilities, as follows:

39 (1) The commission shall undertake a comprehensive analysis
40 of the costs and benefits associated with shared renewable energy

1 generation to determine a facility rate for all facilities participating
2 in the program that shall be based on the full value that the shared
3 renewable energy generation provides. No later than December
4 31, 2014, the commission shall adopt a methodology to calculate
5 a facility rate for shared renewable energy.

6 (2) In order to ensure that the program becomes effective on
7 January 1, 2014, an interim facility rate shall be set at the
8 cumulative weighted average ~~time-of-delivery~~ *time of delivery*
9 adjusted cost of electricity established in the commission's
10 Renewables Portfolio Standard Quarterly Reports published for
11 2012 and 2013 in compliance with Chapter 600 of the Statutes of
12 2011 (Senate Bill ~~No.~~ 836 of the 2011–12 Regular Session) for
13 eligible renewable energy resources of comparable size to, and
14 utilizing the same generating technology as, the shared renewable
15 energy facility, and that are under contract with the electrical
16 corporation.

17 (3) The facility rate shall be set annually as a price per
18 kilowatthour of electricity and shall be applied at the time the
19 provider receives an award of capacity. Once established, a facility
20 rate shall be applicable to that facility for the operational life of
21 the facility, except as allowed in paragraph (1) of subdivision (c).

22 (4) The commission shall publish tariffs applicable to all
23 participants per electrical corporation, as necessary, no later than
24 90 days following the addition of this section.

25 (5) Any subsequent facility or a subsequent expansion of a
26 facility placed in service on or after the initial award of rated
27 generating capacity pursuant to paragraph (3) that results in an
28 increase in the facility's capacity to produce electricity shall be
29 subject to the facility rate in effect on the date the provider applied
30 for an award of rated generating capacity for the subsequent facility
31 or increase in the facility's capacity.

32 (6) The electrical corporation shall assign a monthly bill credit
33 equal to the facility rate for each kilowatthour of energy received
34 to the benefiting account, as directed by the provider. The bill
35 credit shall be applied to the energy component of the benefiting
36 account.

37 (c) (1) The commission may revise the methodology for
38 calculating facility rates at any time that it concludes that the
39 existing mechanism does not provide program participants with
40 the fair value of electricity and other benefits produced by the

1 shared renewable energy facility or overvalues the benefits to
2 nonparticipating customers of the electrical corporation for the
3 electricity generated by a shared renewable energy facility. Any
4 revision to the methodology for calculating the facility rate shall
5 apply to all new program capacity and shall also apply to existing
6 program capacity provided the change results in an increase to the
7 facility rate.

8 (2) *By September 1, 2014, and annually by each September 1*
9 *thereafter, the commission shall review the progress toward*
10 *meeting the program goals for the most impacted and*
11 *disadvantaged communities, and may adjust the facility rate, or*
12 *facility rates, and rules for projects located in the most impacted*
13 *and disadvantaged communities if it determines that an adjustment*
14 *is necessary to achieve the goals and to provide equitable access*
15 *to the benefits of the program.*

16 ~~(2)~~

17 (3) Any renewable energy credits associated with an interest
18 shall be retired by either the provider or electrical corporation, as
19 they may agree, on behalf of the participant or transferred to the
20 Western Renewable Energy Generation Information System
21 account of that participant, for the purpose of demonstrating the
22 purchase of renewable energy. Those renewable energy credits
23 shall not be further sold, transferred, or otherwise monetized by a
24 party for any purpose. Renewable energy credits associated with
25 electricity paid for by the electrical corporation shall be counted
26 toward meeting that electrical corporation's renewables portfolio
27 standard. For purposes of this subdivision, "renewable energy
28 credit" and "renewables portfolio standard" have the same
29 meanings as defined in Section 399.12.

30 ~~(3)~~

31 (4) For energy that is unallocated to a benefiting account during
32 the previous billing period, the recipient electrical corporation
33 shall pay the provider the current default load aggregation point
34 price plus the renewable energy credit value and receive any
35 renewable energy credits associated with that energy.

36 (d) (1) A pilot program of 500 megawatts of alternating current
37 rated nameplate generating capacity of shared renewable energy
38 facilities shall be made available during the 18-month period
39 beginning January 1, 2014, and ending July 1, 2015. Each electrical
40 corporation's proportionate share of the program's total capacity

1 shall be calculated based on the ratio of the electrical corporation's
2 peak demand compared to the total statewide peak demand.

3 (2) On or before March 1, 2014, each electrical corporation
4 shall submit a proposal to the commission for how to allocate the
5 initial available capacity. Within 60 days of receipt of these
6 proposals, the commission shall adopt rules for the allocation of
7 the initial available capacity amongst the electrical corporations
8 and to establish a transparent process for evaluating and ranking
9 applications for shared renewable energy facility projects and
10 awarding the initial capacity to those projects.

11 (3) Of the initial pilot program capacity:

12 (A) Twenty percent shall be reserved for projects of a size no
13 greater than one megawatt of alternating current, constructed in
14 areas previously identified by the California Environmental
15 Protection Agency as the most impacted and disadvantaged
16 communities for opportunities related to this chapter. These
17 communities shall be identified as census tracts that are identified
18 within the top 20 percent of results from the best available
19 cumulative impact screening methodology by considering the
20 following categories:

21 (i) Areas disproportionately affected by environmental pollution
22 and other hazards that can lead to negative public health effects,
23 exposure, or environmental degradation.

24 (ii) Areas with socioeconomic vulnerability.

25 (B) Twenty percent shall be reserved for initial subscription by
26 residential customers.

27 (4) No shared renewable energy facilities under this program
28 may be sited on lands that have held, within the previous five years,
29 a land use designation of prime farmland as defined by the
30 Department of Conservation's Farmland Mapping and Monitoring
31 Program pursuant to Section 65570 of the Government Code,
32 except when the designation has been reclassified to one congruent
33 to the use of the site for the purposes of this chapter by either the
34 Farmland Mapping and Monitoring Program, or via a public
35 process conducted by the relevant local land use management
36 planning authority.

37 (e) Each electrical corporation shall make awards allocating
38 rated generating capacity pursuant to the program in the following
39 manner:

1 (1) (A) Each electrical corporation shall, by March 1, 2014,
2 submit a proposed standard contract with providers for commission
3 approval. The commission shall utilize the Tier 2 advice letter
4 procedure for approval of a standard contract submitted by an
5 electrical corporation.

6 (B) The proposed standard contract shall be based on the
7 electrical corporation's standard contract used for the commission's
8 most recently approved renewable auction mechanism program.
9 Each electrical corporation shall modify the contract to eliminate
10 language irrelevant to this program, including, but not limited to,
11 compensation and monthly payments, operating and development
12 security, and time-of-day periods.

13 (2) A provider wishing to build a shared renewable energy
14 facility shall remit a nonrefundable administrative fee of one dollar
15 and fifty cents (\$1.50) per kilowatt of rated generating capacity to
16 the electrical corporation with its application for an allocation of
17 capacity. At any time, the commission shall have the authority to
18 modify the rated generating capacity allocation mechanism,
19 including, but not limited to, creating project ranking criteria,
20 setting deposit requirements, and creating an award allocation
21 methodology for prospective projects.

22 (3) A provider shall meet the following benchmarks and
23 timelines for construction and operation of a shared renewable
24 energy facility. Failure to do so shall result in the provider
25 forfeiting the rated generating capacity awarded to it.

26 (A) The provider shall issue an unrestricted notice to proceed
27 with construction of the shared renewable energy facility within
28 180 days of the provider receiving an award allocating rated
29 generating capacity from the electrical corporation.

30 (B) The shared renewable energy facility shall achieve
31 commercial operation within 24 months of receiving an award
32 allocating rated generating capacity pursuant to this subdivision.

33 (C) A provider shall receive an extension because of
34 interconnection delays that are outside the provider's control, for
35 a maximum extension of six months.

36 (D) A provider may receive a six-month extension for
37 noninterconnection factors outside the control of the provider.

38 (4) The electrical corporation shall ensure that no single entity
39 or its affiliates or subsidiaries is awarded more than 20 percent of

1 any single calendar year's total cumulative rated generating
2 capacity made available pursuant to this program.

3 (5) The commission shall maintain a public database of facility
4 rates for shared renewable energy facilities that have achieved
5 commercial operation.

6 (f) (1) Once the initial 500 megawatts of cumulative rated
7 generating capacity has been awarded for shared renewable energy
8 facility projects, the commission shall evaluate the functioning of
9 the program.

10 (2) By July 1, 2015, the commission shall conclude an evaluation
11 of the program to date, to determine if the goals of the program
12 are being met, including, but not limited to, the goals of increasing
13 access to renewable power and ensuring nonbeneficiary ratepayer
14 indifference.

15 (3) Unless the commission determines that the program goals
16 are not being met per the goals and timetable identified in
17 paragraph (1) of subdivision (d), the commission shall authorize
18 additional capacity to be made available under this program in
19 keeping with the stated legislative intent, and determine the
20 capacity allocation and manner of participation by residential
21 customers and the capacity allocation for developing projects in
22 areas specified in subparagraphs (A) and (B) of paragraph (3) of
23 subdivision (d).

24 (4) If the commission determines that one or more of the goals
25 are not being met, the commission shall revise the program prior
26 to authorizing additional capacity. Revisions may include
27 increasing customer disclosure information or other safeguards to
28 ensure customer protection, revising capacity set-asides for
29 customer classes or project sizes to increase customer access to
30 the program, alterations in the bill credit mechanism in paragraph
31 (1) of subdivision (c) to ensure shared renewable energy facilities
32 are financially viable through this program while ensuring that all
33 ratepayers are paying for the benefits they receive from this
34 program, or other revisions the commission deems necessary to
35 ensure the program goals can be met. After the commission has
36 revised the program, the commission may authorize additional
37 capacity to be released provided in accordance with paragraph (2)
38 of subdivision (d).

39 (5) Following completion of the pilot program, the commission
40 may evaluate the program at any time, either on its own motion

1 or upon motion by an interested party, and may modify or adopt
2 any rules it determines to be necessary or convenient to ensure
3 that program goals can be met.

4 (6) An electrical corporation shall comply with the requirements
5 applicable to protection of the right to commercial free speech
6 described in Commission Decision 10-05-050 as applied to the
7 development, sale of subscriptions, and operation of shared
8 renewable energy facilities. Shared renewable energy facilities
9 may file a complaint with the commission for violation of this
10 paragraph.

11 (7) If requested by a city, county, or city and county, an
12 electrical corporation shall annually provide the city, county, or
13 city and county with the annual total generation of each shared
14 renewable energy facility in that local jurisdiction and the annual
15 aggregated total generation, by fuel type, allocated to benefiting
16 accounts in that local jurisdiction from all shared renewable energy
17 facilities, regardless of their location. The benefiting account data
18 shall be aggregated in a manner determined by the commission to
19 protect customer privacy and to provide a city, county, or city and
20 county with the information necessary to calculate greenhouse gas
21 emissions from energy consumption within its jurisdiction supplied
22 by shared renewable energy facilities. The commission may
23 develop alternative methods to enable the sharing of annual total
24 generation information.

25 (g) (1) The tariff applicable to a participant shall remain the
26 same, with respect to rate structure, all retail rate components, and
27 any monthly charges, to the charges that the participant would be
28 assigned if the participant did not receive a bill credit. Participants
29 shall not be assessed standby charges on the shared renewable
30 energy facility or the kilowatthour generation of a shared renewable
31 energy facility.

32 (2) Prior to the sale or resale of an interest in a shared renewable
33 energy facility, the provider or the participant, or both, shall
34 provide a disclosure to the potential participant that, at a minimum,
35 includes all of the following:

36 (A) A good faith estimate of the annual kilowatthours to be
37 delivered by the shared renewable energy facility based on the size
38 of the interest.

39 (B) A plain language explanation of the terms under which the
40 bill credits will be calculated.

1 (C) A plain language explanation of the contract provisions
2 regulating the disposition or transfer of the interest.

3 (D) A plain language explanation of the costs and benefits to
4 the potential participant based on its current usage and applicable
5 tariff, for the term of the proposed contract.

6 (3) Not more frequently than once per month, and upon
7 providing the electrical corporation with a minimum of 30 days'
8 notice, the participant organization may change, add, or remove a
9 benefiting account. If the owner of a benefiting account transfers
10 service to a new address or benefiting account, the electrical
11 corporation shall transfer any credit remaining from the previous
12 account to the new account.

13 (4) A provider shall be responsible for providing to the electrical
14 corporation, on a monthly basis, a statement of the kilowatthours
15 allocated to each participant to be used to determine the bill credit
16 to each benefiting account. If there has been no change in the
17 allocations from the previous submission, the provider is not
18 required to submit a new statement. An electrical corporation may
19 rely on the statement of kilowatthours allocated to each participant,
20 as provided by the provider, in implementing the requirements of
21 this chapter.

22 (5) The provider shall provide real-time meter data to the
23 electrical corporation and shall make the data available to a
24 participant upon request. A provider shall be responsible for all
25 costs of metering and shall retain production data for a period of
26 36 months.

27 (6) A provider shall provide to the electrical corporation
28 information on the identity of the benefiting accounts that will
29 receive a bill credit pursuant to this section not less than 30 days
30 prior to the billing cycle for which the participant's account will
31 receive a bill credit.

32 (7) A provider shall provide not less than 60 days' notice to the
33 electrical corporation prior to the date the shared renewable energy
34 facility becomes operational and shall execute all necessary
35 interconnection agreements, participation, and surplus sale
36 agreements with the electrical corporation and the Independent
37 System Operator on a schedule required by those entities.

38 (8) Unless the electrical corporation will be registering
39 renewable energy credits on behalf of the participant, the provider
40 shall establish an account and register the shared renewable energy

1 facility with the Western Renewable Energy Generation
2 Information System or its successor.

3 (9) The provider’s interconnection process and cost allocation
4 for facilities built under this section shall be determined by
5 applicable rules for interconnection established by the commission
6 and the Independent System Operator.

7 (10) An electrical corporation shall ensure that requests for
8 establishment of bill credits and changes to benefiting accounts
9 are processed in a time period not to exceed 30 days from the date
10 it receives the request.

11 (11) An electrical corporation shall cooperate fully with shared
12 renewable energy facilities to implement this chapter.

13 (12) The commission shall not regulate the prices paid by the
14 participant for an interest in a shared renewable energy facility,
15 but may enforce the required disclosures, and may establish rules
16 applicable to providers to ensure consumer protection. Any
17 interested person or corporation may file a complaint with the
18 commission contending that a provider or electrical corporation
19 is not complying with any requirement of this chapter and seek an
20 order of the commission to enforce the requirements of this chapter
21 and to take whatever steps are necessary to ensure consumer
22 protection and compliance with the requirements of this chapter.

23 (h) (1) The electrical corporation may petition the commission
24 to incorporate in its bill those charges by the provider to
25 participants, provided that the electrical corporation recovers all
26 incremental costs of providing that service and provided that the
27 provider elects to use this service.

28 (2) Unless the electrical corporation elects to provide the service
29 of incorporating in its bill those charges by the provider to the
30 participant pursuant to paragraph (3), the following process shall
31 be used when billing and crediting a benefiting account:

32 (A) An electrical corporation shall bill a benefiting account for
33 all electricity usage, and for each applicable bill component,
34 including, but not limited to, transmission and distribution charges,
35 at the rate schedule applicable to the benefiting account, including
36 any cost-responsibility surcharge or other cost recovery mechanism,
37 as determined by the commission, to reimburse the Department
38 of Water Resources for purchases of electricity pursuant to Division
39 27 (commencing with Section 80000) of the Water Code.
40 Participants shall not be subject to any departing load charge.

1 (B) An electrical corporation shall subtract the bill credit
2 applicable to the benefiting account monthly. The electrical
3 corporation shall ensure that the participant receives the full bill
4 credit to which it is entitled. The information and line items on a
5 participant's bill statement will be unchanged, except one or more
6 entries detailing the bill credit that shall be added to a participant's
7 bill.

8 (C) If, at the end of each billing cycle, the total otherwise
9 applicable energy component of the bill exceeds the bill credit,
10 the benefiting account shall be billed for the difference.

11 (D) If, at the end of a billing cycle, the bill credit exceeds the
12 energy component of the amount billed to the account, the
13 difference shall be carried forward as a dollar credit to the next
14 billing cycle. Any earned credit that exceeds the energy component
15 of the bill shall roll over to the subsequent billing period and shall
16 continue to roll over until used or until the annual anniversary date
17 of the participant's initial bill credit, whichever occurs first. On
18 the annual anniversary date of the participant's initial bill credit,
19 any remaining bill credit earned during the previous year and that
20 remains after the application of bill credits to the energy component
21 of a participant's bills shall cease to roll over and will be subject
22 to a default load aggregation point price true-up. The default load
23 aggregation point price true-up shall be calculated by converting
24 the remaining unused bill credits to kilowatthours, by dividing the
25 unused bill credits by the monetary value of a bill credit, and then
26 multiplying the kilowatthours by the default load aggregation point
27 price. The amount calculated doing the default load aggregation
28 point price true-up is owed by the electrical corporation to the
29 participant. The commission shall determine whether the default
30 load aggregation point price true-up is to be paid to participants
31 or credited to future billings and, if so, the manner of crediting.

32 (3) If the electrical corporation elects to incorporate in its bill
33 those charges by the provider to the participant, the following
34 process shall be used for the bundled electric service customers
35 of the electrical corporation:

36 (A) The provider shall convey ownership of the electricity
37 generated by the shared renewable energy facility that passes
38 through the meter and is delivered to the transmission or
39 distribution grid (delivered electricity) to the electrical corporation
40 under terms and conditions determined between the provider and

1 the electrical corporation, pursuant to paragraph (1) of subdivision
2 (e).

3 (B) Unsubscribed delivered electricity shall be sold to the
4 electrical corporation at the default load aggregation point price
5 plus the renewable energy credit value. The electrical corporation
6 shall receive credit under the California ~~Renewable~~ *Renewables*
7 Portfolio Standard Program (Article 16 (commencing with Section
8 399.11) of Chapter 2.3 of Part 1) for all delivered electricity
9 purchased pursuant to this subparagraph, without the need for
10 further qualifying action.

11 (C) The electrical corporation shall charge the participant for
12 service under each benefiting account at the electrical corporation's
13 otherwise applicable tariff.

14 (D) The electrical corporation shall provide the participant with
15 a bill credit based on the allocated share of delivered electricity
16 and shall collect revenue from the participant commensurate with
17 the participant's contract with the provider.

18 (E) The electrical corporation, within 60 days, shall remit to the
19 participant organization the revenue collected from participants
20 through billings pursuant to subparagraph (D).

21 (4) Nothing in paragraph (3) requires a particular bill format or
22 the inclusion of any specific separate billing line items.

23 (5) The commission shall, by January 1, 2015, determine
24 whether customers participating in direct transactions may receive
25 bill credits equivalent to what would be provided to bundled
26 electric service customers of a participating electrical corporation
27 pursuant to this chapter, and, if so, shall implement rules and
28 procedures for enabling those transactions. These particular
29 transactions may include those with an electric service provider
30 that does not provide distribution services *and*, customers receiving
31 electric service through a shared choice aggregation ~~program~~, and
32 ~~customers of a local publicly owned utility that receive distribution~~
33 ~~service from an electrical corporation having 100,000 or more~~
34 ~~service connections in California.~~ *program.*

35 (i) (1) To ensure the maximum systemic benefit from shared
36 renewable energy facilities under this chapter, electrical
37 corporations shall provide to the commission, prior to the release
38 of capacity, maps indicating locations in their service territory
39 where the addition of capacity would reduce line loss, lower
40 transmission capacity constraints, and defer or avoid transmission

1 and distribution network upgrades and construction. The
2 commission may adopt guidance in determining criteria for the
3 awarding of capacity in a manner as to reflect these benefits.

4 (2) Before December 31, 2015, the commission shall complete
5 an evaluation of whether the program causes any incremental rate
6 impacts. If the commission finds rate impacts, it will determine
7 whether and how to allocate these costs equitably to all program
8 participants, or instead recover on a fully nonbypassable basis
9 from all customers receiving distribution service from an electrical
10 corporation, including ratepayers with rates that are otherwise
11 subject to rate increase limitations pursuant to Section 739.9, but
12 excluding customers in the California Alternate Rates for Energy
13 (CARE) *program* or the family electric rate assistance (FERA)
14 programs.

15 (3) On or before February 1, 2016, the commission shall require
16 each electrical corporation to file with the commission, for its
17 approval, any revisions to its tariffs, rates, and rate design as are
18 necessary to ensure an equitable allocation to all customers,
19 consistent with the commission's evaluation.

20 (4) The commission shall ensure full and timely recovery of all
21 reasonable costs incurred by an electrical corporation to implement
22 the program, including reasonable expenses for changes to its
23 billing system and handling of collections, and shall determine the
24 appropriate method of allocating those costs. The commission
25 shall approve a memorandum account to track billing system and
26 implementation costs, as well as revenue from provider project
27 applications, and may not direct an electrical corporation to conduct
28 any billing system work prior to approval of the memorandum
29 account.

30 (5) In calculating its procurement requirements to meet the
31 requirements of the California Renewables Portfolio Standard
32 Program (Article 16 (commencing with Section 399.11) of Chapter
33 2.3 of Part 1), an electrical corporation may exclude from total
34 retail sales the kilowatthours generated by a shared renewable
35 energy facility commencing with the point in time at which the
36 facility achieves commercial operation.

37 (6) The local and system resource adequacy value attributable
38 to a shared renewable energy facility, as determined by the
39 commission pursuant to Section 380, shall be assigned to the
40 electrical corporation to which the facility is interconnected.

1 ~~SEC. 7.~~

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

O