

AMENDED IN SENATE MAY 28, 2013  
AMENDED IN SENATE MAY 24, 2013  
AMENDED IN SENATE MAY 15, 2013  
AMENDED IN SENATE MAY 8, 2013  
AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 43**

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

December 11, 2012

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An act to amend Section 25100 of the Corporations Code, and to amend Sections 216, 218, and 365.1 of, and to add *and repeal* Chapter 7.6 (commencing with Section 2831) ~~to~~ of Part 2 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Wolk. Shared 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 to receive a bill credit 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 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 to offset all or a portion of the customer's electricity usage, consistent with specified requirements. *The bill would repeal the program on January 1, 2019.*

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) 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 25100 of the Corporations Code is
- 2 amended to read:
- 3 25100. The following securities are exempted from Sections
- 4 25110, 25120, and 25130:
- 5 (a) Any security (including a revenue obligation) issued or
- 6 guaranteed by the United States, any state, any city, county, city
- 7 and county, public district, public authority, public corporation,
- 8 public entity, or political subdivision of a state or any agency or

1 corporate or other instrumentality of any one or more of the  
2 foregoing; or any certificate of deposit for any of the foregoing.

3 (b) Any security issued or guaranteed by Canada, any Canadian  
4 province, any political subdivision or municipality of that province,  
5 or by any other foreign government with which the United States  
6 currently maintains diplomatic relations, if the security is  
7 recognized as a valid obligation by the issuer or guarantor; or any  
8 certificate of deposit for any of the foregoing.

9 (c) Any security issued or guaranteed by and representing an  
10 interest in or a direct obligation of a national bank or a bank or  
11 trust company incorporated under the laws of this state, and any  
12 security issued by a bank to one or more other banks and  
13 representing an interest in an asset of the issuing bank.

14 (d) Any security issued or guaranteed by a federal savings  
15 association or federal savings bank or federal land bank or joint  
16 land bank or national farm loan association or by any savings  
17 association, as defined in subdivision (a) of Section 5102 of the  
18 Financial Code, which is subject to the supervision and regulation  
19 of the Commissioner of Financial Institutions of this state.

20 (e) Any security (other than an interest in all or portions of a  
21 parcel or parcels of real property which are subdivided land or a  
22 subdivision or in a real estate development), the issuance of which  
23 is subject to authorization by the Insurance Commissioner, the  
24 Public Utilities Commission, or the Real Estate Commissioner of  
25 this state.

26 (f) Any security consisting of any interest in all or portions of  
27 a parcel or parcels of real property which are subdivided lands or  
28 a subdivision or in a real estate development; provided that the  
29 exemption in this subdivision shall not be applicable to: (1) any  
30 investment contract sold or offered for sale with, or as part of, that  
31 interest, or (2) any person engaged in the business of selling,  
32 distributing, or supplying water for irrigation purposes or domestic  
33 use that is not a public utility except that the exemption is  
34 applicable to any security of a mutual water company (other than  
35 an investment contract as described in paragraph (1)) offered or  
36 sold in connection with subdivided lands pursuant to Chapter 2  
37 (commencing with Section 14310) of Part 7 of Division 3 of Title  
38 1.

39 (g) Any mutual capital certificates or savings accounts, as  
40 defined in the Savings Association Law, issued by a savings

1 association, as defined by subdivision (a) of Section 5102 of the  
2 Financial Code, and holding a license or certificate of authority  
3 then in force from the Commissioner of Financial Institutions of  
4 this state.

5 (h) Any security issued or guaranteed by any federal credit  
6 union, or by any credit union organized and supervised, or  
7 regulated, under the Credit Union Law.

8 (i) Any security issued or guaranteed by any railroad, other  
9 common carrier, public utility, or public utility holding company  
10 which is (1) subject to the jurisdiction of the Interstate Commerce  
11 Commission or its successor or (2) a holding company registered  
12 with the *United States* Securities and Exchange Commission under  
13 the Public Utility Holding Company Act of 1935 or a subsidiary  
14 of that company within the meaning of that act or (3) regulated in  
15 respect of the issuance or guarantee of the security by a  
16 governmental authority of the United States, of any state, of Canada  
17 or of any Canadian province; and the security is subject to  
18 registration with or authorization of issuance by that authority.

19 (j) Any security (except evidences of indebtedness, whether  
20 interest bearing or not) of an issuer (1) organized exclusively for  
21 educational, benevolent, fraternal, religious, charitable, social, or  
22 reformatory purposes and not for pecuniary profit, if no part of the  
23 net earnings of the issuer inures to the benefit of any private  
24 shareholder or individual, or (2) organized as a chamber of  
25 commerce or trade or professional association. The fact that  
26 amounts received from memberships or dues or both will or may  
27 be used to construct or otherwise acquire facilities for use by  
28 members of the nonprofit organization does not disqualify the  
29 organization for this exemption. This exemption does not apply  
30 to the securities of any nonprofit organization if any promoter  
31 thereof expects or intends to make a profit directly or indirectly  
32 from any business or activity associated with the organization or  
33 operation of that nonprofit organization or from remuneration  
34 received from that nonprofit organization.

35 (k) Any agreement, commonly known as a “life income  
36 contract,” of an issuer (1) organized exclusively for educational,  
37 benevolent, fraternal, religious, charitable, social, or reformatory  
38 purposes and not for pecuniary profit and (2) which the  
39 commissioner designates by rule or order, with a donor in  
40 consideration of a donation of property to that issuer and providing

1 for the payment to the donor or persons designated by him or her  
2 of income or specified periodic payments from the donated  
3 property or other property for the life of the donor or those other  
4 persons.

5 (l) Any note, draft, bill of exchange, or banker's acceptance  
6 which is freely transferable and of prime quality, arises out of a  
7 current transaction or the proceeds of which have been or are to  
8 be used for current transactions, and which evidences an obligation  
9 to pay cash within nine months of the date of issuance, exclusive  
10 of days of grace, or any renewal of that paper which is likewise  
11 limited, or any guarantee of that paper or of that renewal, provided  
12 that the paper is not offered to the public in amounts of less than  
13 twenty-five thousand dollars (\$25,000) in the aggregate to any one  
14 purchaser. In addition, the commissioner may, by rule or order,  
15 exempt any issuer of any notes, drafts, bills of exchange or banker's  
16 acceptances from qualification of those securities when the  
17 commissioner finds that the qualification is not necessary or  
18 appropriate in the public interest or for the protection of investors.

19 (m) Any security issued by any corporation organized and  
20 existing under the provisions of Chapter 1 (commencing with  
21 Section 54001) of Division 20 of the Food and Agricultural Code.

22 (n) Any beneficial interest in an employees' pension,  
23 profit-sharing, stock bonus or similar benefit plan which meets the  
24 requirements for qualification under Section 401 of the federal  
25 Internal Revenue Code or any statute amendatory thereof or  
26 supplementary thereto. A determination letter from the Internal  
27 Revenue Service stating that an employees' pension, profit-sharing,  
28 stock bonus or similar benefit plan meets those requirements shall  
29 be conclusive evidence that the plan is an employees' pension,  
30 profit-sharing, stock bonus or similar benefit plan within the  
31 meaning of the first sentence of this subdivision until the date the  
32 determination letter is revoked in writing by the Internal Revenue  
33 Service, regardless of whether or not the revocation is retroactive.

34 (o) Any security listed or approved for listing upon notice of  
35 issuance on a national securities exchange, if the exchange has  
36 been certified by rule or order of the commissioner and any warrant  
37 or right to purchase or subscribe to the security. The exemption  
38 afforded by this subdivision does not apply to securities listed or  
39 approved for listing upon notice of issuance on a national securities

1 exchange, in a rollup transaction unless the rollup transaction is  
2 an eligible rollup transaction as defined in Section 25014.7.

3 That certification of any exchange shall be made by the  
4 commissioner upon the written request of the exchange if the  
5 commissioner finds that the exchange, in acting on applications  
6 for listing of common stock, substantially applies the minimum  
7 standards set forth in either subparagraph (A) or (B) of paragraph  
8 (1), and, in considering suspension or removal from listing,  
9 substantially applies each of the criteria set forth in paragraph (2).

10 (1) Listing standards:

11 (A) (i) Shareholders' equity of at least four million dollars  
12 (\$4,000,000).

13 (ii) Pretax income of at least seven hundred fifty thousand  
14 dollars (\$750,000) in the issuer's last fiscal year or in two of its  
15 last three fiscal years.

16 (iii) Minimum public distribution of 500,000 shares (exclusive  
17 of the holdings of officers, directors, controlling shareholders, and  
18 other concentrated or family holdings), together with a minimum  
19 of 800 public holders or minimum public distribution of 1,000,000  
20 shares together with a minimum of 400 public holders. The  
21 exchange may also consider the listing of a company's securities  
22 if the company has a minimum of 500,000 shares publicly held, a  
23 minimum of 400 shareholders and daily trading volume in the  
24 issue has been approximately 2,000 shares or more for the six  
25 months preceding the date of application. In evaluating the  
26 suitability of an issue for listing under this trading provision, the  
27 exchange shall review the nature and frequency of that activity  
28 and any other factors as it may determine to be relevant in  
29 ascertaining whether the issue is suitable for trading. A security  
30 that trades infrequently shall not be considered for listing under  
31 this paragraph even though average daily volume amounts to 2,000  
32 shares per day or more.

33 Companies whose securities are concentrated in a limited  
34 geographical area, or whose securities are largely held in block by  
35 institutional investors, normally may not be considered eligible  
36 for listing unless the public distribution appreciably exceeds  
37 500,000 shares.

38 (iv) Minimum price of three dollars (\$3) per share for a  
39 reasonable period of time prior to the filing of a listing application;  
40 provided, however, in certain instances an exchange may favorably

1 consider listing an issue selling for less than three dollars (\$3) per  
2 share after considering all pertinent factors, including market  
3 conditions in general, whether historically the issue has sold above  
4 three dollars (\$3) per share, the applicant's capitalization, and the  
5 number of outstanding and publicly held shares of the issue.

6 (v) An aggregate market value for publicly held shares of at  
7 least three million dollars (\$3,000,000).

8 (B) (i) Shareholders' equity of at least four million dollars  
9 (\$4,000,000).

10 (ii) Minimum public distribution set forth in clause (iii) of  
11 subparagraph (A) of paragraph (1).

12 (iii) Operating history of at least three years.

13 (iv) An aggregate market value for publicly held shares of at  
14 least fifteen million dollars (\$15,000,000).

15 (2) Criteria for consideration of suspension or removal from  
16 listing:

17 (A) If a company that (i) has shareholders' equity of less than  
18 one million dollars (\$1,000,000) has sustained net losses in each  
19 of its two most recent fiscal years, or (ii) has net tangible assets  
20 of less than three million dollars (\$3,000,000) and has sustained  
21 net losses in three of its four most recent fiscal years.

22 (B) If the number of shares publicly held (excluding the holdings  
23 of officers, directors, controlling shareholders and other  
24 concentrated or family holdings) is less than 150,000.

25 (C) If the total number of shareholders is less than 400 or if the  
26 number of shareholders of lots of 100 shares or more is less than  
27 300.

28 (D) If the aggregate market value of shares publicly held is less  
29 than seven hundred fifty thousand dollars (\$750,000).

30 (E) If shares of common stock sell at a price of less than three  
31 dollars (\$3) per share for a substantial period of time and the issuer  
32 shall fail to effectuate a reverse stock split of the shares within a  
33 reasonable period of time after being requested by the exchange  
34 to take that action.

35 A national securities exchange, certified by rule or order of the  
36 commissioner under this subdivision, shall file annual reports when  
37 requested to do so by the commissioner. The annual reports shall  
38 contain, by issuer: the variances granted to an exchange's listing  
39 standards, including variances from corporate governance and  
40 voting rights' standards, for any security of that issuer; the reasons

1 for the variances; a discussion of the review procedure instituted  
2 by the exchange to determine the effect of the variances on  
3 investors and whether the variances should be continued; and any  
4 other information that the commissioner deems relevant. The  
5 purpose of these reports is to assist the commissioner in  
6 determining whether the quantitative and qualitative requirements  
7 of this subdivision are substantially being met by the exchange in  
8 general or with regard to any particular security.

9 The commissioner after appropriate notice and opportunity for  
10 hearing in accordance with the provisions of the Administrative  
11 Procedure Act, Chapter Act (*Chapter 5* (commencing with Section  
12 11500) of Part 1 of Division 3 of Title 2 of the Government Code,  
13 Code) may, in his or her discretion, by rule or order, decertify any  
14 exchange previously certified that ceases substantially to apply  
15 the minimum standards or criteria as set forth in paragraphs (1)  
16 and (2).

17 A rule or order of certification shall conclusively establish that  
18 any security listed or approved for listing upon notice of issuance  
19 on any exchange named in a rule or order of certification, and any  
20 warrant or right to purchase or subscribe to that security, is exempt  
21 under this subdivision until the adoption by the commissioner of  
22 any rule or order decertifying the exchange.

23 (p) A promissory note secured by a lien on real property, which  
24 is neither one of a series of notes of equal priority secured by  
25 interests in the same real property nor a note in which beneficial  
26 interests are sold to more than one person or entity.

27 (q) Any unincorporated interindemnity or reciprocal or  
28 interinsurance contract, that qualifies under the provisions of  
29 Section 1280.7 of the Insurance Code, between members of a  
30 cooperative corporation, organized and operating under Part 2  
31 (commencing with Section 12200) of Division 3 of Title 1, and  
32 whose members consist only of physicians and surgeons licensed  
33 in California, which contracts indemnify solely in respect to  
34 medical malpractice claims against the members, and which do  
35 not collect in advance of loss any moneys other than contributions  
36 by each member to a collective reserve trust fund or for necessary  
37 expenses of administration.

38 (1) Whenever it appears to the commissioner that any person  
39 has engaged or is about to engage in any act or practice constituting  
40 a violation of any provision of Section 1280.7 of the Insurance

1 Code, the commissioner may, in the commissioner’s discretion,  
2 bring an action in the name of the people of the State of California  
3 in the superior court to enjoin the acts or practices or to enforce  
4 compliance with Section 1280.7 of the Insurance Code. Upon a  
5 proper showing a permanent or preliminary injunction, a restraining  
6 order, or a writ of mandate shall be granted and a receiver or  
7 conservator may be appointed for the defendant or the defendant’s  
8 assets.

9 (2) The commissioner may, in the commissioner’s discretion,  
10 (A) make public or private investigations within or outside of this  
11 state as the commissioner deems necessary to determine whether  
12 any person has violated or is about to violate any provision of  
13 Section 1280.7 of the Insurance Code or to aid in the enforcement  
14 of Section 1280.7 *of the Insurance Code*, and (B) publish  
15 information concerning the violation of Section 1280.7 *of the*  
16 *Insurance Code*.

17 (3) For the purpose of any investigation or proceeding under  
18 this section, the commissioner or any officer designated by the  
19 commissioner may administer oaths and affirmations, subpoena  
20 witnesses, compel their attendance, take evidence, and require the  
21 production of any books, papers, correspondence, memoranda,  
22 agreements, or other documents or records which the commissioner  
23 deems relevant or material to the inquiry.

24 (4) In case of contumacy by, or refusal to obey a subpoena  
25 issued to, any person, the superior court, upon application by the  
26 commissioner, may issue to the person an order requiring the  
27 person to appear before the commissioner, or the officer designated  
28 by the commissioner, to produce documentary evidence, if so  
29 ordered, or to give evidence touching the matter under investigation  
30 or in question. Failure to obey the order of the court may be  
31 punished by the court as a contempt.

32 (5) No person is excused from attending or testifying or from  
33 producing any document or record before the commissioner or in  
34 obedience to the subpoena of the commissioner or any officer  
35 designated by the commissioner, or in any proceeding instituted  
36 by the commissioner, on the ground that the testimony or evidence  
37 (documentary or otherwise), required of the person may tend to  
38 incriminate the person or subject the person to a penalty or  
39 forfeiture, but no individual may be prosecuted or subjected to any  
40 penalty or forfeiture for or on account of any transaction, matter,

1 or thing concerning which the person is compelled, after validly  
2 claiming the privilege against self-incrimination, to testify or  
3 produce evidence (documentary or otherwise), except that the  
4 individual testifying is not exempt from prosecution and  
5 punishment for perjury or contempt committed in testifying.

6 (6) The cost of any review, examination, audit, or investigation  
7 made by the commissioner under Section 1280.7 of the Insurance  
8 Code shall be paid to the commissioner by the person subject to  
9 the review, examination, audit, or investigation, and the  
10 commissioner may maintain an action for the recovery of these  
11 costs in any court of competent jurisdiction. In determining the  
12 cost, the commissioner may use the actual amount of the salary or  
13 other compensation paid to the persons making the review,  
14 examination, audit, or investigation plus the actual amount of  
15 expenses including overhead reasonably incurred in the  
16 performance of the work.

17 The recoverable cost of each review, examination, audit, or  
18 investigation made by the commissioner under Section 1280.7 of  
19 the Insurance Code shall not exceed twenty-five thousand dollars  
20 (\$25,000), except that costs exceeding twenty-five thousand dollars  
21 (\$25,000) shall be recoverable if the costs are necessary to prevent  
22 a violation of any provision of Section 1280.7 of the Insurance  
23 Code.

24 (r) Any shares or memberships issued by any corporation  
25 organized and existing pursuant to the provisions of Part 2  
26 (commencing with Section 12200) of Division 3 of Title 1,  
27 provided the aggregate investment of any shareholder or member  
28 in shares or memberships sold pursuant to this subdivision does  
29 not exceed three hundred dollars (\$300). This exemption does not  
30 apply to the shares or memberships of that corporation if any  
31 promoter thereof expects or intends to make a profit directly or  
32 indirectly from any business or activity associated with the  
33 corporation or the operation of the corporation or from  
34 remuneration, other than reasonable salary, received from the  
35 corporation. This exemption does not apply to nonvoting shares  
36 or memberships of that corporation issued to any person who does  
37 not possess, and who will not acquire in connection with the  
38 issuance of nonvoting shares or memberships, voting power  
39 (Section 12253) in the corporation. This exemption also does not  
40 apply to shares or memberships issued by a nonprofit cooperative

1 corporation organized to facilitate the creation of an unincorporated  
2 interindemnity arrangement that provides indemnification for  
3 medical malpractice to its physician and surgeon members as set  
4 forth in subdivision (q).

5 (s) Any security consisting of or representing an interest in a  
6 pool of mortgage loans that meets each of the following  
7 requirements:

8 (1) The pool consists of whole mortgage loans or participation  
9 interests in those loans, which loans were originated or acquired  
10 in the ordinary course of business by a national bank or federal  
11 savings association or federal savings bank having its principal  
12 office in this state, by a bank incorporated under the laws of this  
13 state or by a savings association as defined in subdivision (a) of  
14 Section 5102 of the Financial Code and which is subject to the  
15 supervision and regulation of the Commissioner of Financial  
16 Institutions, and each of which at the time of transfer to the pool  
17 is an authorized investment for the originating or acquiring  
18 institution.

19 (2) The pool of mortgage loans is held in trust by a trustee which  
20 is a financial institution specified in paragraph (1) as trustee or  
21 otherwise.

22 (3) The loans are serviced by a financial institution specified in  
23 paragraph (1).

24 (4) The security is not offered in amounts of less than  
25 twenty-five thousand dollars (\$25,000) in the aggregate to any one  
26 purchaser.

27 (5) The security is offered pursuant to a registration under the  
28 *federal* Securities Act of 1933, or pursuant to an exemption under  
29 Regulation A under that act, or in the opinion of counsel for the  
30 issuer, is offered pursuant to an exemption under Section 4(2) of  
31 that act.

32 (t) (1) Any security issued or guaranteed by and representing  
33 an interest in or a direct obligation of an industrial loan company  
34 incorporated under the laws of the state and authorized by the  
35 Commissioner of Financial Institutions to engage in industrial loan  
36 business.

37 (2) Any investment certificate in or issued by any industrial  
38 loan company that is organized under the laws of a state of the  
39 United States other than this state, that is insured by the Federal

1 Deposit Insurance Corporation, and that maintains a branch office  
2 in this state.

3 (u) (1) Any right to a bill credit or interest of a participant in  
4 a shared renewable energy facility pursuant to Chapter 7.5  
5 (commencing with Section 2830) of Part 2 of Division 1 of the  
6 Public Utilities Code.

7 (2) *This subdivision shall become inoperative on January 1,*  
8 *2019.*

9 SEC. 2. Section 216 of the Public Utilities Code is amended  
10 to read:

11 216. (a) “Public utility” includes every common carrier, toll  
12 bridge corporation, pipeline corporation, gas corporation, electrical  
13 corporation, telephone corporation, telegraph corporation, water  
14 corporation, sewer system corporation, and heat corporation, where  
15 the service is performed for, or the commodity is delivered to, the  
16 public or any portion thereof.

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

29 (c) When any person or corporation performs any service for,  
30 or delivers any commodity to, any person, private corporation,  
31 municipality, or other political subdivision of the state, that in turn  
32 either directly or indirectly, mediately or immediately, performs  
33 that service for, or delivers that commodity to, the public or any  
34 portion thereof, that person or corporation is a public utility subject  
35 to the jurisdiction, control, and regulation of the commission and  
36 the provisions of this part.

37 (d) Ownership or operation of a facility that employs  
38 cogeneration technology or produces power from other than a  
39 conventional power source or the ownership or operation of a  
40 facility which employs landfill gas technology does not make a

1 corporation or person a public utility within the meaning of this  
2 section solely because of the ownership or operation of that facility.

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

10 (f) The ownership or operation of a facility that sells compressed  
11 natural gas at retail to the public for use only as a motor vehicle  
12 fuel, and the selling of compressed natural gas at retail from that  
13 facility to the public for use only as a motor vehicle fuel, does not  
14 make the corporation or person a public utility within the meaning  
15 of this section solely because of that ownership, operation, or sale.

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

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

30 (i) The ownership, control, operation, or management of a  
31 facility that supplies electricity to the public only for use to charge  
32 light duty plug-in electric vehicles does not make the corporation  
33 or person a public utility within the meaning of this section solely  
34 because of that ownership, control, operation, or management. For  
35 purposes of this subdivision, “light duty plug-in electric vehicles”  
36 includes light duty battery electric and plug-in hybrid electric  
37 vehicles. This subdivision does not affect the commission’s  
38 authority under Section 454 or 740.2 or any other applicable statute.

39 (j) (I) A corporation or person engaged directly or indirectly  
40 in developing, owning, producing, delivering, participating in, or

1 selling interests in a shared renewable energy facility, pursuant to  
2 Chapter 7.5 (commencing with Section 2830) of Part 2, is not a  
3 public utility within the meaning of this section solely by reason  
4 of engaging in any of those activities.

5 (2) *This subdivision shall become inoperative on January 1,*  
6 *2019.*

7 SEC. 3. Section 218 of the Public Utilities Code is amended  
8 to read:

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

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

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

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

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

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

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

38 (3) Sale or transmission to an electrical corporation or state or  
39 local public agency, but not for sale or transmission to others,

1 unless the corporation or person is otherwise an electrical  
2 corporation.

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

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

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

11 (3) Sale or transmission to an electrical corporation or state or  
12 local public agency.

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

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

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

21 (3) Sale or transmission to an electrical corporation or state or  
22 local public agency, if the sale or transmission of the electricity  
23 service to a retail customer is provided through the transmission  
24 system of the existing local publicly owned electric utility or  
25 electrical corporation of that retail customer.

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

29 (f) The amendments made to this section at the 1987 portion of  
30 the 1987–88 Regular Session of the Legislature do not apply to  
31 any corporation or person employing cogeneration technology or  
32 producing power from other than a conventional power source for  
33 the generation of electricity that physically produced electricity  
34 prior to January 1, 1989, and furnished that electricity to  
35 immediately adjacent real property for use thereon prior to January  
36 1, 1989.

37 (g) (1) A corporation or person engaged directly or indirectly  
38 in developing, owning, producing, delivering, participating in, or  
39 selling interests in a shared renewable energy facility, pursuant to  
40 Chapter 7.5 (commencing with Section 2830) of Part 2, is not an

1 electrical corporation within the meaning of this section solely by  
 2 reason of engaging in any of those activities.

3 (2) *This subdivision shall become inoperative on January 1,*  
 4 *2019.*

5 SEC. 4. Section 365.1 of the Public Utilities Code is amended  
 6 to read:

7 365.1. (a) (1) Except as expressly authorized by this section,  
 8 and subject to the limitations in subdivisions (b) and (c), the right  
 9 of retail end-use customers pursuant to this chapter to acquire  
 10 service from other providers is suspended until the Legislature, by  
 11 statute, lifts the suspension or otherwise authorizes direct  
 12 transactions. ~~For~~

13 (2) *For* purposes of this section, “other provider” means any  
 14 person, corporation, or other entity that is authorized to provide  
 15 electric service within the service territory of an electrical  
 16 corporation pursuant to this chapter, and includes an aggregator,  
 17 broker, or marketer, as defined in Section 331, and an electric  
 18 service provider, as defined in Section 218.3. ~~“Other~~

19 (3) *“Other* provider” does not include a community choice  
 20 aggregator, as defined in Section 331.1, and the limitations in this  
 21 section do not apply to the sale of electricity by “other providers”  
 22 to a community choice aggregator for resale to community choice  
 23 aggregation electricity consumers pursuant to Section 366.2. ~~“Other~~

24 (4) (A) *“Other* provider” does not include a “provider” as  
 25 defined in subdivision (j) of Section 2832 or any corporation or  
 26 person engaged directly or indirectly in developing, owning,  
 27 producing, delivering, participating in, or selling interests in a  
 28 shared renewable energy facility, pursuant to Chapter 7.5  
 29 (commencing with Section 2830) of Part 2, solely by reason of  
 30 engaging in any of those activities.

31 (B) *This paragraph shall become inoperative on January 1,*  
 32 *2019.*

33 (b) The commission shall allow individual retail nonresidential  
 34 end-use customers to acquire electric service from other providers  
 35 in each electrical corporation’s distribution service territory, up to  
 36 a maximum allowable total kilowatthours annual limit. The  
 37 maximum allowable annual limit shall be established by the  
 38 commission for each electrical corporation at the maximum total  
 39 kilowatthours supplied by all other providers to distribution  
 40 customers of that electrical corporation during any sequential

1 12-month period between April 1, 1998, and the effective date of  
2 this section. Within six months of the effective date of this section,  
3 or by July 1, 2010, whichever is sooner, the commission shall  
4 adopt and implement a reopening schedule that commences  
5 immediately and will phase in the allowable amount of increased  
6 kilowatthours over a period of not less than three years, and not  
7 more than five years, raising the allowable limit of kilowatthours  
8 supplied by other providers in each electrical corporation's  
9 distribution service territory from the number of kilowatthours  
10 provided by other providers as of the effective date of this section,  
11 to the maximum allowable annual limit for that electrical  
12 corporation's distribution service territory. The commission shall  
13 review and, if appropriate, modify its currently effective rules  
14 governing direct transactions, but that review shall not delay the  
15 start of the phase-in schedule.

16 (c) Once the commission has authorized additional direct  
17 transactions pursuant to subdivision (b), it shall do both of the  
18 following:

19 (1) Ensure that other providers are subject to the same  
20 requirements that are applicable to the state's three largest electrical  
21 corporations under any programs or rules adopted by the  
22 commission to implement the resource adequacy provisions of  
23 Section 380, the renewables portfolio standard provisions of Article  
24 16 (commencing with Section 399.11), and the requirements for  
25 the electricity sector adopted by the State Air Resources Board  
26 pursuant to the California Global Warming Solutions Act of 2006  
27 (Division 25.5 (commencing with Section 38500) of the Health  
28 and Safety Code). This requirement applies notwithstanding any  
29 prior decision of the commission to the contrary.

30 (2) (A) Ensure that, in the event that the commission authorizes,  
31 in the situation of a contract with a third party, or orders, in the  
32 situation of utility-owned generation, an electrical corporation to  
33 obtain generation resources that the commission determines are  
34 needed to meet system or local area reliability needs for the benefit  
35 of all customers in the electrical corporation's distribution service  
36 territory, the net capacity costs of those generation resources are  
37 allocated on a fully nonbypassable basis consistent with departing  
38 load provisions as determined by the commission, to all of the  
39 following:

40 (i) Bundled service customers of the electrical corporation.

1 (ii) Customers that purchase electricity through a direct  
2 transaction with other providers.

3 (iii) Customers of community choice aggregators.

4 (B) If the commission authorizes or orders an electrical  
5 corporation to obtain generation resources pursuant to subparagraph  
6 (A), the commission shall ensure that those resources meet a system  
7 or local reliability need in a manner that benefits all customers of  
8 the electrical corporation. The commission shall allocate the costs  
9 of those generation resources to ratepayers in a manner that is fair  
10 and equitable to all customers, whether they receive electric service  
11 from the electrical corporation, a community choice aggregator,  
12 or an electric service provider.

13 (C) The resource adequacy benefits of generation resources  
14 acquired by an electrical corporation pursuant to subparagraph (A)  
15 shall be allocated to all customers who pay their net capacity costs.  
16 Net capacity costs shall be determined by subtracting the energy  
17 and ancillary services value of the resource from the total costs  
18 paid by the electrical corporation pursuant to a contract with a  
19 third party or the annual revenue requirement for the resource if  
20 the electrical corporation directly owns the resource. An energy  
21 auction shall not be required as a condition for applying this  
22 allocation, but may be allowed as a means to establish the energy  
23 and ancillary services value of the resource for purposes of  
24 determining the net costs of capacity to be recovered from  
25 customers pursuant to this paragraph, and the allocation of the net  
26 capacity costs of contracts with third parties shall be allowed for  
27 the terms of those contracts.

28 (D) It is the intent of the Legislature, in enacting this paragraph,  
29 to provide additional guidance to the commission with respect to  
30 the implementation of subdivision (g) of Section 380, as well as  
31 to ensure that the customers to whom the net costs and benefits of  
32 capacity are allocated are not required to pay for the cost of  
33 electricity they do not consume.

34 (d) (1) If the commission approves a centralized resource  
35 adequacy mechanism pursuant to subdivisions (h) and (i) of Section  
36 380, upon the implementation of the centralized resource adequacy  
37 mechanism the requirements of paragraph (2) of subdivision (c)  
38 shall be suspended. If the commission later orders that electrical  
39 corporations cease procuring capacity through a centralized

1 resource adequacy mechanism, the requirements of paragraph (2)  
2 of subdivision (c) shall again apply.

3 (2) If the use of a centralized resource adequacy mechanism is  
4 authorized by the commission and has been implemented as set  
5 forth in paragraph (1), the net capacity costs of generation resources  
6 that the commission determines are required to meet urgent system  
7 or urgent local grid reliability needs, and that the commission  
8 authorizes to be procured outside of the Section 380 or Section  
9 454.5 processes, shall be recovered according to the provisions of  
10 paragraph (2) of subdivision (c).

11 (3) Nothing in this subdivision supplants the resource adequacy  
12 requirements of Section 380 or the resource procurement  
13 procedures established in Section 454.5.

14 (e) The commission may report to the Legislature on the efficacy  
15 of authorizing individual retail end-use residential customers to  
16 enter into direct transactions, including appropriate consumer  
17 protections.

18 SEC. 5. Chapter 7.6 (commencing with Section 2831) is added  
19 to Part 2 of Division 1 of the Public Utilities Code, to read:

20

21 CHAPTER 7.6. SHARED RENEWABLE ENERGY SELF-GENERATION  
22 PROGRAM

23

24 2831. The Legislature finds and declares all of the following:

25 (a) The creation of renewable energy within California provides  
26 significant financial, health, environmental, and workforce benefits  
27 to the State of California.

28 (b) The California Solar Initiative has been extremely successful,  
29 resulting in over 140,000 residential and commercial onsite  
30 installations of solar energy systems. However, it cannot reach all  
31 residents and businesses that want to participate and is limited to  
32 solar energy. The Shared Renewable Energy Self-Generation  
33 Program seeks to build on this success by expanding access to  
34 renewable energy resources to all ratepayers that are currently  
35 unable to access the benefits of onsite generation, without shifting  
36 costs to nonparticipants.

37 (c) The Governor has proposed the Clean Energy Jobs Plan,  
38 calling for the development of 20,000 megawatts of generation  
39 from renewable energy resources by 2020. There is widespread  
40 interest from many large institutional customers, including schools,

1 colleges, universities, local governments, businesses, and the  
2 military, for development of renewable generation facilities to  
3 serve more than 33 percent of their energy needs. For these reasons,  
4 the Legislature agrees that the Governor’s Clean Energy Jobs Plan  
5 represents a desired policy direction for the state.

6 (d) Properly designed, shared renewable energy programs can  
7 provide access and cost savings to underserved communities, such  
8 as low- to moderate-income residents, and residential and  
9 commercial renters, without shifting costs to nonparticipants.

10 (e) Public institutions will benefit from the Shared Renewable  
11 Energy Self-Generation Program’s enhanced flexibility to  
12 participate in shared renewable energy facilities. Electricity usage  
13 is one of the most significant cost pressures facing public  
14 institutions at a time when they have been forced to cut essential  
15 programs, increase classroom sizes, and lay off teachers. Schools  
16 may use the savings for restoring funds for salaries, facility  
17 maintenance, and other budgetary needs.

18 (f) Shared renewable energy self-generation creates jobs, reduces  
19 emissions of greenhouse gases, and promotes energy independence.

20 (g) Many large energy users in California have pursued onsite  
21 renewable energy generation, but cannot achieve their goals due  
22 to rooftop or land space limitations, or size limits on net metering.  
23 The enactment of this chapter will create a mechanism whereby  
24 institutional customers such as military installations, universities,  
25 and local governments, as well as commercial customers and  
26 groups of individuals, can efficiently invest in generating electricity  
27 from renewable generation.

28 (h) Therefore, it is the intent of the Legislature that this program  
29 be implemented in such a manner as to create a large, sustainable  
30 market for the purchase of an interest in offsite renewable  
31 generation, while fairly compensating electrical corporations for  
32 the services they provide.

33 (i) It is the further intent of the Legislature to preserve a thriving  
34 natural environment and to ensure that projects developed under  
35 the Shared Renewable Energy Self-Generation Program are subject  
36 to environmental protection best practices afforded under California  
37 law and policies.

38 2832. As used in this chapter, the following terms have the  
39 following meanings:

1 (a) “Benefiting account” means one or more electricity accounts  
2 designated to receive a bill credit pursuant to Section 2833 and  
3 mutually agreed upon by the facility provider and an electrical  
4 corporation.

5 (b) “Bill credit” means an amount of money credited each  
6 month, or in an otherwise applicable billing period, to one or more  
7 benefiting accounts based on the amount of the electrical output  
8 of a shared renewable energy facility that is assigned to the account  
9 pursuant to the methodology described in Section 2833.

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

12 (d) “Energy component” means the generation portion of a  
13 customer’s otherwise applicable tariff and any other portion of the  
14 customer’s charges that the commission determines may be  
15 appropriate to offset without resulting in a net cost shift to  
16 nonparticipants.

17 (e) “Facility rate” means the per kilowatthour rate assigned to  
18 each facility built under the program, used to calculate the bill  
19 credit pursuant to the method described in paragraphs (1) and (2)  
20 of subdivision (b) of Section 2833.

21 (f) “Interest” means a direct or indirect ownership, lease,  
22 subscription, or financing interest in a shared renewable energy  
23 facility that enables the participant to receive a bill credit for a  
24 retail account with the electrical corporation.

25 (g) “Local government” means a city, county, city and county,  
26 special district, school district, public water district, public  
27 irrigation district, county office of education, political subdivision,  
28 or other local governmental entity. For the purposes of this chapter,  
29 “water district” has the same meaning as defined in Section 20200  
30 of the Water Code, and “irrigation district” means an entity formed  
31 pursuant to the Irrigation District Law set forth in Division 11  
32 (commencing with Section 20500) of the Water Code.

33 (h) “Participant” means a retail customer of an electrical  
34 corporation that owns, leases, finances, or subscribes to an interest  
35 in a shared renewable energy facility and who has designated at  
36 least one of its own retail accounts as a benefiting account to which  
37 the interest shall be attributed.

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

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

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

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

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

11 (n) “Shared renewable energy facility” means a facility for the  
12 generation of electricity that meets all of the following  
13 requirements:

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

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

19 (3) Has its electrical output measured by a production meter  
20 owned by the electrical corporation, that meets the tariff  
21 requirements of the electrical corporation and the Independent  
22 System Operator, and that independently measures the electricity  
23 delivered to the grid by the facility.

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

26 (5) Has been interconnected with the electrical grid in  
27 compliance with the tariffs of the applicable interconnection  
28 authority.

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

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

37 2833. (a) (1) A retail customer of an electrical corporation  
38 having 100,000 or more service connections within the state may  
39 acquire an interest in a shared renewable energy facility for the

1 purpose of becoming a participant and shall designate one or more  
2 benefiting accounts to which the interest shall be attributed.

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

7 (3) The participating customer's bill credit may be used to offset  
8 all or a portion of the energy component of that customer's  
9 electrical service, as provided in this chapter and in accordance  
10 with those rules that the commission may adopt.

11 (4) A participant shall not acquire an interest in a shared  
12 renewable energy facility that represents more than two megawatts  
13 of generating capacity or the equivalent amount, as denominated  
14 in kilowatthours of energy. This limitation does not apply to a  
15 federal, state, or local government, school, school district, county  
16 office of education, the California Community Colleges, the  
17 California State University, or the University of California.

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

20 (1) The commission shall undertake a comprehensive analysis  
21 of the costs and benefits associated with shared renewable energy  
22 generation to determine the value of electricity generated by shared  
23 renewable energy facilities for the purpose of setting a facility rate.  
24 The commission shall determine the valuation methodology after  
25 notice and an opportunity to comment. The commission shall  
26 ensure that the valuation methodology does not result in a net cost  
27 shift to nonparticipants. No later than December 31, 2014, the  
28 commission shall publish facility rates for shared renewable energy  
29 facilities, differentiated by resource type, as appropriate.

30 (2) The facility rate shall be set annually as a price per  
31 kilowatthour of electricity and shall be applied at the time the  
32 provider receives an award of capacity. Once established, a facility  
33 rate shall be applicable to that facility for the operational life of  
34 the facility, ~~except as allowed in paragraph (1) of subdivision (c)~~  
35 *facility*.

36 (3) The commission shall publish tariffs applicable to all  
37 participants per electrical corporation, as necessary, no later than  
38 90 days following the publication of the facility rates.

39 (4) Any subsequent facility or a subsequent expansion of a  
40 facility placed in service on or after the initial award of rated

1 generating capacity pursuant to paragraph (2) that results in an  
2 increase in the facility's capacity to produce electricity shall be  
3 subject to the facility rate in effect on the date the provider applied  
4 for an award of rated generating capacity for the subsequent facility  
5 or increase in the facility's capacity.

6 (5) The electrical corporation shall assign a monthly bill credit  
7 equal to the facility rate for each kilowatthour of energy received  
8 to the benefiting account, as directed by the provider. The bill  
9 credit shall be applied to the energy component of the benefiting  
10 account.

11 (c) (1) The commission may revise the methodology for  
12 calculating facility rates at any time that it concludes that the  
13 existing mechanism does not provide program participants with  
14 the fair value of electricity and other benefits produced by the  
15 shared renewable energy facility or overvalues the benefits to  
16 nonparticipating customers of the electrical corporation for the  
17 electricity generated by a shared renewable energy facility, *if this*  
18 *revision does not result in a cost shift to nonparticipants*. Any  
19 revision to the methodology for calculating the facility rate shall  
20 apply to all new program capacity ~~and shall also apply to existing~~  
21 ~~program capacity provided the change results in an increase to the~~  
22 ~~facility rate~~.

23 (2) By September 1, 2014, and annually by each September 1  
24 thereafter, the commission shall review the progress toward  
25 meeting the program goals for the most impacted and  
26 disadvantaged communities, and may adjust the facility rate, or  
27 facility rates, and rules for projects located in the most impacted  
28 and disadvantaged communities if it determines that an adjustment  
29 is necessary to achieve the goals and to provide equitable access  
30 to the benefits of the program, *if these adjustments do not result*  
31 *in a cost shift to nonparticipants*.

32 (3) Any renewable energy credits associated with an interest  
33 shall be retired by either the provider or electrical corporation, as  
34 they may agree, on behalf of the participant or transferred to the  
35 Western Renewable Energy Generation Information System  
36 account of that participant, for the purpose of demonstrating the  
37 purchase of renewable energy. Those renewable energy credits  
38 shall not be further sold, transferred, or otherwise monetized by a  
39 party for any purpose. Renewable energy credits associated with  
40 electricity paid for by the electrical corporation shall be counted

1 toward meeting that electrical corporation’s renewables portfolio  
2 standard. For purposes of this subdivision, “renewable energy  
3 credit” and “renewables portfolio standard” have the same  
4 meanings as defined in Section 399.12.

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

10 (d) (1) A pilot program of 500 megawatts of alternating current  
11 rated nameplate generating capacity of shared renewable energy  
12 facilities shall be made available during the 18-month period  
13 beginning March 1, 2015, and ending July 1, 2016. Each electrical  
14 corporation’s proportionate share of the program’s total capacity  
15 shall be calculated based on the ratio of the electrical corporation’s  
16 peak demand compared to the total statewide peak demand.

17 (2) On or before March 1, 2015, each electrical corporation  
18 shall submit a proposal to the commission for how to allocate the  
19 initial available capacity. Within 60 days of receipt of these  
20 proposals, the commission shall adopt rules for the allocation of  
21 the initial available capacity amongst the electrical corporations  
22 and to establish a transparent process for evaluating and ranking  
23 applications for shared renewable energy facility projects and  
24 awarding the initial capacity to those projects.

25 (3) Of the initial pilot program capacity:

26 (A) Twenty percent shall be reserved for projects of a size no  
27 greater than one megawatt of alternating current, constructed in  
28 areas previously identified by the California Environmental  
29 Protection Agency as the most impacted and disadvantaged  
30 communities for opportunities related to this chapter. These  
31 communities shall be identified as census tracts that are identified  
32 within the top 20 percent of results from the best available  
33 cumulative impact screening methodology by considering the  
34 following categories:

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

38 (ii) Areas with socioeconomic vulnerability.

39 (B) Twenty percent shall be reserved for initial subscription by  
40 residential customers.

1 (C) (i) The commission, when ~~establishing the initial~~  
2 *determining* facility rates, may adjust the rates for those participants  
3 receiving a bill credit for the generation by a shared renewable  
4 energy facility described in subparagraph (A), until the total  
5 cumulative nameplate generating capacity of those facilities reaches  
6 100 megawatts of alternating current, provided that any cost shift  
7 associated with an adjusted facility rate impacts only other program  
8 participants.

9 (ii) The commission, when ~~establishing the initial~~ *determining*  
10 facility rates, may adjust the rates for residential customers until  
11 the total cumulative interests of residential customers reaches 100  
12 megawatts of alternating current rated nameplate generating  
13 capacity, provided that any cost shift associated with an adjusted  
14 facility rate impacts only other program participants.

15 (e) *The commission shall determine the manner in which the*  
16 *capacity under the program shall be allocated and the contracting*  
17 *mechanisms between, and procedures regarding, providers and*  
18 *electrical corporations.*

19 ~~(e) Each electrical corporation shall make awards allocating~~  
20 ~~rated generating capacity pursuant to the program in the following~~  
21 ~~manner:~~

22 ~~(1) (A) Each electrical corporation shall, by January 1, 2015,~~  
23 ~~submit a proposed standard contract with providers for commission~~  
24 ~~approval. The commission shall utilize the Tier 2 advice letter~~  
25 ~~procedure for approval of a standard contract submitted by an~~  
26 ~~electrical corporation.~~

27 ~~(B) The proposed standard contract shall be based on the~~  
28 ~~electrical corporation's standard contract used for the commission's~~  
29 ~~most recently approved renewable auction mechanism program.~~  
30 ~~Each electrical corporation shall modify the contract to eliminate~~  
31 ~~language irrelevant to this program, including, but not limited to,~~  
32 ~~compensation and monthly payments, operating and development~~  
33 ~~security, and time-of-day periods.~~

34 ~~(2) A provider wishing to build a shared renewable energy~~  
35 ~~facility shall remit a nonrefundable administrative fee of one dollar~~  
36 ~~and fifty cents (\$1.50) per kilowatt of rated generating capacity to~~  
37 ~~the electrical corporation with its application for an allocation of~~  
38 ~~capacity. At any time, the commission shall have the authority to~~  
39 ~~modify the rated generating capacity allocation mechanism,~~  
40 ~~including, but not limited to, creating project ranking criteria,~~

1 ~~setting deposit requirements, and creating an award allocation~~  
2 ~~methodology for prospective projects.~~

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

7 ~~(A) A provider shall issue an unrestricted notice to proceed with~~  
8 ~~construction of the shared renewable energy facility within 180~~  
9 ~~days of the provider receiving an award allocating rated generating~~  
10 ~~capacity from the electrical corporation.~~

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

14 ~~(C) A provider shall receive an extension because of~~  
15 ~~interconnection delays that are outside the provider's control, for~~  
16 ~~a maximum extension of six months.~~

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

19 (4) The electrical corporation shall ensure that no single entity  
20 or its affiliates or subsidiaries is awarded more than 20 percent of  
21 any single calendar year's total cumulative rated generating  
22 capacity made available pursuant to this program.

23 (5) The commission shall maintain a public database that  
24 includes all of the following:

25 (A) All projects that have been approved for participation in  
26 the pilot program, their size, and where the projects are connecting  
27 to the transmission or distribution system.

28 (B) The nameplate generating capacity of those projects located  
29 in environmental justice areas described in subparagraph (A) of  
30 paragraph (3) of subdivision (d).

31 (C) The facility rates for shared renewable energy facilities that  
32 have achieved commercial operation.

33 (D) The proportion of shared renewable energy facilities  
34 subscribed to by residential customers.

35 (E) Any other data relative to the program that the commission  
36 considers suitable for disclosure to the public.

37 (f) (1) Once the initial 500 megawatts of cumulative rated  
38 generating capacity has been awarded for shared renewable energy  
39 facility projects, the commission shall evaluate the functioning of  
40 the program.

1 (2) By ~~July~~ *January* 1, 2016, the commission shall conclude an  
2 evaluation of the program to date, to determine if the goals of the  
3 program are being met, including, but not limited to, the goals of  
4 increasing access to renewable power and ensuring nonparticipant  
5 ratepayer indifference.

6 ~~(3) Unless the commission determines that the program goals  
7 are not being met per the goals and timetable identified in  
8 paragraph (1) of subdivision (d), the commission shall authorize  
9 additional capacity to be made available under the program in  
10 keeping with the stated legislative intent, and determine the  
11 capacity allocation and manner of participation by residential  
12 customers and the capacity allocation for developing projects in  
13 areas specified in subparagraph (A) of paragraph (3) of subdivision  
14 (d).~~

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

30 ~~(5) Following completion of the pilot program, the~~

31 (3) *The* commission may evaluate the program at any time,  
32 either on its own motion or upon the motion of an interested party,  
33 and may modify or adopt any rules it determines to be necessary  
34 or convenient to ensure that program goals can be met.

35 (6)

36 (4) An electrical corporation shall comply with the requirements  
37 applicable to protection of the right to commercial free speech  
38 described in Commission Decision 10-05-050 as applied to the  
39 development, sale of subscriptions, and operation of shared  
40 renewable energy facilities. Shared renewable energy facilities

1 may file a complaint with the commission for violation of this  
2 paragraph.

3 (7)

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

18 (g) (1) The tariff applicable to a participant shall remain the  
19 same, with respect to rate structure, all retail rate components, and  
20 any monthly charges, to the charges that the participant would be  
21 assigned if the participant did not receive a bill credit, *except that*  
22 *the tariff may also reflect the cost and benefit components and*  
23 *summary used to determine the bill credit assigned to the*  
24 *participant. ~~Participants shall not be assessed standby charges on~~*  
25 *~~the shared renewable energy facility or the kilowatthour generation~~*  
26 *~~of a shared renewable energy facility.~~*

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

31 (A) A good faith estimate of the annual kilowatthours to be  
32 delivered by the shared renewable energy facility based on the size  
33 of the interest.

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

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

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

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

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

17 ~~(5) A provider shall provide real-time meter data to the electrical~~  
18 ~~corporation and shall make the data available to a participant upon~~  
19 ~~request. A provider shall be responsible for all costs of metering~~  
20 ~~and shall retain production data for a period of 36 months.~~

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

26 ~~(3) *The commission shall determine the manner in which*~~  
27 ~~*customer accounts are to be credited for energy provided under*~~  
28 ~~*the program, including, but not limited to, how production is*~~  
29 ~~*counted and assigned, the entry and exits of accounts from the*~~  
30 ~~*program, and the disposition of excess credits received.*~~

31 ~~(7) A~~

32 ~~(4) 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)~~

39 ~~(5) Unless the electrical corporation will be registering~~  
40 ~~renewable energy credits on behalf of the participant, the provider~~

1 shall establish an account and register the shared renewable energy  
2 facility with the Western Renewable Energy Generation  
3 Information System or its successor.

4 ~~(9)~~

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

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

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

15 ~~(12)~~

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

26 (h) (1) *The commission shall determine the manner in which*  
27 *customers are billed and receive credits under the program.* The  
28 electrical corporation may petition the commission to incorporate  
29 in its bill those charges by the provider to participants, provided  
30 that the electrical corporation recovers all incremental costs of  
31 providing that service and provided that the provider elects to use  
32 this service.

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

37 ~~(A) An electrical corporation shall bill a benefiting account for~~  
38 ~~all electricity usage, and for each applicable bill component,~~  
39 ~~including, but not limited to, transmission and distribution charges,~~  
40 ~~at the rate schedule applicable to the benefiting account, including~~

1 any cost-responsibility surcharge or other cost recovery mechanism,  
2 as determined by the commission, to reimburse the Department  
3 of Water Resources for purchases of electricity pursuant to Division  
4 27 (commencing with Section 80000) of the Water Code.

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

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

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

36 ~~(3) If the electrical corporation elects to incorporate in its bill~~  
37 ~~those charges by the provider to the participant, the following~~  
38 ~~process shall be used for the bundled electric service customers~~  
39 ~~of the electrical corporation:~~

1 ~~(A) The provider shall convey ownership of the electricity~~  
2 ~~generated by the shared renewable energy facility that passes~~  
3 ~~through the meter and is delivered to the transmission or~~  
4 ~~distribution grid (delivered electricity) to the electrical corporation~~  
5 ~~under terms and conditions determined between the provider and~~  
6 ~~the electrical corporation, pursuant to paragraph (1) of subdivision~~  
7 ~~(e).~~

8 ~~(B)~~

9 (2) Unsubscribed delivered electricity shall be sold to the  
10 electrical corporation at the default load aggregation point price  
11 plus the renewable energy credit value. The electrical corporation  
12 shall receive credit under the California Renewables Portfolio  
13 Standard Program (Article 16 (commencing with Section 399.11)  
14 of Chapter 2.3 of Part 1) for all delivered electricity purchased  
15 pursuant to this subparagraph, without the need for further  
16 qualifying action.

17 ~~(C)~~

18 (3) The electrical corporation shall charge the participant for  
19 service under each benefiting account at the electrical corporation's  
20 otherwise applicable tariff.

21 ~~(D)~~

22 (4) The electrical corporation shall provide the participant with  
23 a bill credit based on the allocated share of delivered electricity  
24 and shall collect revenue from the participant commensurate with  
25 the participant's contract with the provider.

26 ~~(E)~~

27 (5) The electrical corporation, within 60 days, shall remit to the  
28 participant organization the revenue collected from participants  
29 through billings pursuant to ~~subparagraph (D)~~ *paragraph (4)*.

30 ~~(4)~~

31 (6) Nothing in ~~paragraph~~ *paragraphs (2), (3), (4), and (5)*  
32 requires a particular bill format or the inclusion of any specific  
33 separate billing line items.

34 ~~(5)~~

35 (7) The commission shall, by January 1, 2015, determine  
36 whether customers participating in direct transactions may receive  
37 bill credits equivalent to what would be provided to bundled  
38 electric service customers of a participating electrical corporation  
39 pursuant to this chapter, and, if so, shall implement rules and  
40 procedures for enabling those transactions. These particular

1 transactions may include those with an electric service provider  
2 that does not provide distribution services and, customers receiving  
3 electric service through a community choice aggregation program.

4 (i) (1) To ensure the maximum systemic benefit from shared  
5 renewable energy facilities under this chapter, electrical  
6 corporations shall provide to the commission, prior to the release  
7 of capacity, maps indicating locations in their service territory  
8 where the addition of capacity would reduce line loss, lower  
9 transmission capacity constraints, and defer or avoid transmission  
10 and distribution network upgrades and construction. The  
11 commission may adopt guidance in determining criteria for the  
12 awarding of capacity in a manner as to reflect these benefits. The  
13 commission shall also ensure that projects being awarded capacity  
14 under the program are subject to protections consistent with those  
15 afforded under the California Renewables Portfolio Standard  
16 Program (Article 16 (commencing with Section 399.11) of Chapter  
17 2.3 of Part 1).

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

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

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

39 *2834. This chapter shall remain in effect only until January 1,*  
40 *2019, and as of that date is repealed, unless a later enacted statute,*

1 *that is enacted before January 1, 2019, deletes or extends that*  
2 *date.*

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

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