

AMENDED IN ASSEMBLY JUNE 15, 2013

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

Introduced by Senator Wolk

(Coauthors: Senators Corbett and Pavley)

(Coauthors: Assembly Members Levine, Skinner, and Williams)

December 11, 2012

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) 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 5 (commencing with Section 11500) of
12 Part 1 of Division 3 of Title 2 of the Government Code) may, in
13 his or her discretion, by rule or order, decertify any exchange
14 previously certified that ceases substantially to apply the minimum
15 standards or criteria as set forth in paragraphs (1) and (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

1 interindemnity arrangement that provides indemnification for
2 medical malpractice to its physician and surgeon members as set
3 forth in subdivision (q).

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

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

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

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

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

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

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

36 (2) Any investment certificate in or issued by any industrial
37 loan company that is organized under the laws of a state of the
38 United States other than this state, that is insured by the Federal
39 Deposit Insurance Corporation, and that maintains a branch office
40 in this state.

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

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

7 SEC. 2. Section 216 of the Public Utilities Code is amended
8 to read:

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

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

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

35 (d) Ownership or operation of a facility that employs
36 cogeneration technology or produces power from other than a
37 conventional power source or the ownership or operation of a
38 facility which employs landfill gas technology does not make a
39 corporation or person a public utility within the meaning of this
40 section solely because of the ownership or operation of that facility.

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

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

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

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

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

37 (j) (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 a

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

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

5 SEC. 3. Section 218 of the Public Utilities Code is amended
6 to read:

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

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

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

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 or on real property immediately adjacent
21 thereto, unless there is an intervening public street constituting the
22 boundary between the real property on which the electricity is
23 generated and the immediately adjacent property and one or more
24 of the following applies:

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

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

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

36 (3) Sale or transmission to an electrical corporation or state or
37 local public agency, but not for sale or transmission to others,
38 unless the corporation or person is otherwise an electrical
39 corporation.

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

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

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

9 (3) Sale or transmission to an electrical corporation or state or
10 local public agency.

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

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

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

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

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

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

35 (g) (1) A corporation or person engaged directly or indirectly
36 in developing, owning, producing, delivering, participating in, or
37 selling interests in a shared renewable energy facility, pursuant to
38 Chapter 7.5 (commencing with Section 2830) of Part 2, is not an
39 electrical corporation within the meaning of this section solely by
40 reason of engaging in any of those activities.

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

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

5 365.1. (a) (1) Except as expressly authorized by this section,
6 and subject to the limitations in subdivisions (b) and (c), the right
7 of retail end-use customers pursuant to this chapter to acquire
8 service from other providers is suspended until the Legislature, by
9 statute, lifts the suspension or otherwise authorizes direct
10 transactions.

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

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

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

29 (B) This paragraph shall become inoperative on January 1, 2019.

30 (b) The commission shall allow individual retail nonresidential
31 end-use customers to acquire electric service from other providers
32 in each electrical corporation’s distribution service territory, up to
33 a maximum allowable total kilowatthours annual limit. The
34 maximum allowable annual limit shall be established by the
35 commission for each electrical corporation at the maximum total
36 kilowatthours supplied by all other providers to distribution
37 customers of that electrical corporation during any sequential
38 12-month period between April 1, 1998, and the effective date of
39 this section. Within six months of the effective date of this section,
40 or by July 1, 2010, whichever is sooner, the commission shall

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

13 (c) Once the commission has authorized additional direct
14 transactions pursuant to subdivision (b), it shall do both of the
15 following:

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

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

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

38 (ii) Customers that purchase electricity through a direct
39 transaction with other providers.

40 (iii) Customers of community choice aggregators.

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

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

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

31 (d) (1) If the commission approves a centralized resource
32 adequacy mechanism pursuant to subdivisions (h) and (i) of Section
33 380, upon the implementation of the centralized resource adequacy
34 mechanism the requirements of paragraph (2) of subdivision (c)
35 shall be suspended. If the commission later orders that electrical
36 corporations cease procuring capacity through a centralized
37 resource adequacy mechanism, the requirements of paragraph (2)
38 of subdivision (c) shall again apply.

39 (2) If the use of a centralized resource adequacy mechanism is
40 authorized by the commission and has been implemented as set

1 forth in paragraph (1), the net capacity costs of generation resources
2 that the commission determines are required to meet urgent system
3 or urgent local grid reliability needs, and that the commission
4 authorizes to be procured outside of the Section 380 or Section
5 454.5 processes, shall be recovered according to the provisions of
6 paragraph (2) of subdivision (c).

7 (3) Nothing in this subdivision supplants the resource adequacy
8 requirements of Section 380 or the resource procurement
9 procedures established in Section 454.5.

10 (e) The commission may report to the Legislature on the efficacy
11 of authorizing individual retail end-use residential customers to
12 enter into direct transactions, including appropriate consumer
13 protections.

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

16
17 CHAPTER 7.6. SHARED RENEWABLE ENERGY SELF-GENERATION
18 PROGRAM
19

20 2831. The Legislature finds and declares all of the following:

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

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

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

1 the Legislature agrees that the Governor’s Clean Energy Jobs Plan
2 represents a desired policy direction for the state.

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

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

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

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

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

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

35 2832. As used in this chapter, the following terms have the
36 following meanings:

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

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

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

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

13 ~~(e) “Facility rate” means the per kilowatt-hour rate assigned to~~
14 ~~each facility built under the program, used to calculate the bill~~
15 ~~credit pursuant to the method described in paragraphs (1) and (2)~~
16 ~~of subdivision (b) of Section 2833.~~

17 ~~(f)~~

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

22 ~~(g)~~

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

31 ~~(h)~~

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

37 ~~(i)~~

38 (h) “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)~~
- 2 (i) “Provider” means any entity whose purpose is to beneficially
- 3 own or operate a shared renewable energy facility for the
- 4 participants or owners of that facility, or to market an interest in
- 5 the facility.
- 6 ~~(k)~~
- 7 (j) “Program” means the Shared Renewable Energy
- 8 Self-Generation Program established pursuant to this chapter.
- 9 ~~(l)~~
- 10 (k) “Project” means the cumulative activities to build and make
- 11 operational a shared renewable energy facility.
- 12 ~~(m)~~
- 13 (l) “Renewable energy credit” has the same meaning as defined
- 14 in Section 399.12.
- 15 ~~(n)~~
- 16 (m) “Shared renewable energy facility” means a facility for the
- 17 generation of electricity that meets all of the following
- 18 requirements:
- 19 (1) Has a nameplate generating capacity of no more than 20
- 20 megawatts of alternating current.
- 21 (2) Is an eligible renewable energy resource pursuant to the
- 22 California Renewables Portfolio Standard Program (Article 16
- 23 commencing with Section 399.11) of Chapter 2.3 of Part 1).
- 24 (3) Has its electrical output measured by a production meter
- 25 owned by the electrical corporation, that meets the tariff
- 26 requirements of the electrical corporation and the Independent
- 27 System Operator, and that independently measures the electricity
- 28 delivered to the grid by the facility.
- 29 (4) Is located within the service territory of a California electrical
- 30 corporation.
- 31 (5) Has been interconnected with the electrical grid in
- 32 compliance with the tariffs of the applicable interconnection
- 33 authority.
- 34 (6) Is either the PVUSA facility, meaning the photovoltaic
- 35 electricity generation facility selected by the City of Davis and
- 36 located at 24662 County Road, Davis, California, or is a newly
- 37 constructed renewable energy facility constructed pursuant to this
- 38 chapter, beginning commercial operation on or after June 1, 2014.

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

4 2833. (a) (1) A retail customer of an electrical corporation
5 having 100,000 or more service connections within the state may
6 acquire an interest in a shared renewable energy facility for the
7 purpose of becoming a participant and shall designate one or more
8 benefiting accounts to which the interest shall be attributed.

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

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

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

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

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

36 ~~(2) The facility rate shall be set annually as a price per
37 kilowatthour of electricity and shall be applied at the time the
38 provider receives an award of capacity. Once established, a facility
39 rate shall be applicable to that facility for the operational life of
40 the facility.~~

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

4 ~~(4) Any subsequent facility or a subsequent expansion of a~~
5 ~~facility placed in service on or after the initial award of rated~~
6 ~~generating capacity pursuant to paragraph (2) that results in an~~
7 ~~increase in the facility's capacity to produce electricity shall be~~
8 ~~subject to the facility rate in effect on the date the provider applied~~
9 ~~for an award of rated generating capacity for the subsequent facility~~
10 ~~or increase in the facility's capacity.~~

11 ~~(5)~~

12 ~~(b) The electrical corporation shall assign a monthly bill credit~~
13 ~~equal to the facility *class average retail generation* rate for each~~
14 ~~kilowatthour of energy received to the benefiting account, as~~
15 ~~directed by the provider *account plus any differences between the*~~
16 ~~*time-of-day profile of the renewable resources for which the*~~
17 ~~*participating customer subscribes and the class average*~~
18 ~~*time-of-day profile.* The bill credit shall be applied to the energy~~
19 ~~component of the benefiting account.~~

20 ~~(e) (1) The commission may revise the methodology for~~
21 ~~calculating facility rates at any time that it concludes that the~~
22 ~~existing mechanism does not provide program participants with~~
23 ~~the fair value of electricity and other benefits produced by the~~
24 ~~shared renewable energy facility or overvalues the benefits to~~
25 ~~nonparticipating customers of the electrical corporation for the~~
26 ~~electricity generated by a shared renewable energy facility, if this~~
27 ~~revision does not result in a cost shift to nonparticipants. Any~~
28 ~~revision to the methodology for calculating the facility rate shall~~
29 ~~apply to all new program capacity.~~

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

39 ~~(3)~~

1 (c) (1) Any renewable energy credits associated with an interest
2 shall be retired by either the provider or electrical corporation, as
3 they may agree, on behalf of the participant or transferred to the
4 Western Renewable Energy Generation Information System
5 account of that participant, for the purpose of demonstrating the
6 purchase of renewable energy. Those renewable energy credits
7 shall not be further sold, transferred, or otherwise monetized by a
8 party for any purpose. Renewable energy credits associated with
9 electricity paid for by the electrical corporation shall be counted
10 toward meeting that electrical corporation's renewables portfolio
11 standard. For purposes of this subdivision, "renewable energy
12 credit" and "renewables portfolio standard" have the same
13 meanings as defined in Section 399.12.

14 ~~(4)~~

15 (2) For energy that is unallocated to a benefiting account during
16 the previous billing period, the recipient electrical corporation
17 shall pay the provider the current default load aggregation point
18 price plus the renewable energy credit value and receive any
19 renewable energy credits associated with that energy.

20 (d) (1) A pilot program of 500 megawatts of alternating current
21 rated nameplate generating capacity of shared renewable energy
22 facilities shall be made available during the 18-month period
23 beginning March 1, 2015, and ending July 1, 2016. Each electrical
24 corporation's proportionate share of the program's total capacity
25 shall be calculated based on the ratio of the electrical corporation's
26 peak demand compared to the total statewide peak demand.

27 (2) On or before March 1, 2015, each electrical corporation
28 shall submit a proposal to the commission for how to allocate the
29 initial available capacity. Within 60 days of receipt of these
30 proposals, the commission shall adopt rules for the allocation of
31 the initial available capacity amongst the electrical corporations
32 and to establish a transparent process for evaluating and ranking
33 applications for shared renewable energy facility projects and
34 awarding the initial capacity to those projects.

35 (3) Of the initial pilot program capacity:

36 (A) Twenty percent shall be reserved for projects of a size no
37 greater than one megawatt of alternating current, constructed in
38 areas previously identified by the California Environmental
39 Protection Agency as the most impacted and disadvantaged
40 communities for opportunities related to this chapter. These

1 communities shall be identified as census tracts that are identified
2 within the top 20 percent of results from the best available
3 cumulative impact screening methodology by considering the
4 following categories:

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

8 (ii) Areas with socioeconomic vulnerability.

9 (B) Twenty percent shall be reserved for initial subscription by
10 residential customers.

11 ~~(C) (i) The commission, when determining facility rates, may~~
12 ~~adjust the rates for those participants receiving a bill credit for the~~
13 ~~generation by a shared renewable energy facility described in~~
14 ~~subparagraph (A), until the total cumulative nameplate generating~~
15 ~~capacity of those facilities reaches 100 megawatts of alternating~~
16 ~~current, provided that any cost shift associated with an adjusted~~
17 ~~facility rate impacts only other program participants.~~

18 ~~(ii) The commission, when determining facility rates, may adjust~~
19 ~~the rates for residential customers until the total cumulative~~
20 ~~interests of residential customers reaches 100 megawatts of~~
21 ~~alternating current rated nameplate generating capacity, provided~~
22 ~~that any cost shift associated with an adjusted facility rate impacts~~
23 ~~only other program participants.~~

24 (e) The commission shall determine the manner in which the
25 capacity under the program shall be allocated and the contracting
26 mechanisms between, and procedures regarding, providers and
27 electrical corporations.

28 ~~(4)~~

29 (f) (1) The electrical corporation shall ensure that no single
30 entity or its affiliates or subsidiaries is awarded more than 20
31 percent of any single calendar year’s total cumulative rated
32 generating capacity made available pursuant to this program.

33 ~~(5)~~

34 (2) The commission shall maintain a public database that
35 includes all of the following:

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

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

4 ~~(C) The facility rates for shared renewable energy facilities that~~
5 ~~have achieved commercial operation.~~

6 ~~(D)~~

7 (C) The proportion of shared renewable energy facilities
8 subscribed to by residential customers.

9 ~~(E)~~

10 (D) Any other data relative to the program that the commission
11 considers suitable for disclosure to the public.

12 ~~(F)~~

13 (g) (1) Once the initial 500 megawatts of cumulative rated
14 generating capacity has been awarded for shared renewable energy
15 facility projects, the commission shall evaluate the functioning of
16 the program.

17 (2) By January 1, 2016, the commission shall conclude an
18 evaluation of the program to date, to determine if the goals of the
19 program are being met, including, but not limited to, the goals of
20 increasing access to renewable power and ensuring nonparticipant
21 ratepayer indifference.

22 (3) The commission may evaluate the program at any time,
23 either on its own motion or upon the motion of an interested party,
24 and may modify or adopt any rules it determines to be necessary
25 or convenient to ensure that program goals can be met *provided*
26 *that the program modifications and rules do not result in a shifting*
27 *of costs to nonparticipating ratepayers. The commission shall*
28 *ensure that the charges and credits associated with this program*
29 *shall be structured to ensure nonparticipating ratepayer*
30 *indifference for the remaining bundled service, direct access, and*
31 *community choice aggregation customers and that no costs are*
32 *shifted from participating customers to nonparticipating*
33 *ratepayers.*

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

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

15 ~~(g)~~

16 (h) (1) The tariff applicable to a participant shall remain the
17 same, with respect to rate structure, all retail rate components, and
18 any monthly charges, to the charges that the participant would be
19 assigned if the participant did not receive a bill credit, ~~except that~~
20 ~~the tariff may also reflect the cost and benefit components and~~
21 ~~summary used to determine the bill credit assigned to the~~
22 ~~participant credit.~~

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

27 (A) A good faith estimate of the annual kilowatthours to be
28 delivered by the shared renewable energy facility based on the size
29 of the interest.

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

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

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

37 (3) The commission shall determine the manner in which
38 customer accounts are to be credited for energy provided under
39 the program, including, but not limited to, how production is

1 counted and assigned, the entry and exits of accounts from the
2 program, and the disposition of excess credits received.

3 (4) A provider shall execute all necessary interconnection
4 agreements, participation, and surplus sale agreements with the
5 electrical corporation and the Independent System Operator on a
6 schedule required by those entities.

7 (5) Unless the electrical corporation will be registering
8 renewable energy credits on behalf of the participant, the provider
9 shall establish an account and register the shared renewable energy
10 facility with the Western Renewable Energy Generation
11 Information System or its successor.

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

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)~~

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

34 (2) Unsubscribed delivered electricity shall be sold to the
35 electrical corporation at the default load aggregation point price
36 plus the renewable energy credit value. The electrical corporation
37 shall receive credit under the California Renewables Portfolio
38 Standard Program (Article 16 (commencing with Section 399.11)
39 of Chapter 2.3 of Part 1) for all delivered electricity purchased

1 pursuant to this subparagraph, without the need for further
2 qualifying action.

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

6 (4) The electrical corporation shall provide the participant with
7 a bill credit based on the allocated share of delivered electricity
8 and shall collect revenue from the participant commensurate with
9 the participant's contract with the provider.

10 (5) The electrical corporation, within 60 days, shall remit to the
11 participant organization the revenue collected from participants
12 through billings pursuant to paragraph (4).

13 (6) Nothing in paragraphs (2), (3), (4), and (5) requires a
14 particular bill format or the inclusion of any specific separate
15 billing line items.

16 (7) The commission shall, by January 1, 2015, determine
17 whether customers participating in direct transactions may receive
18 bill credits equivalent to what would be provided to bundled
19 electric service customers of a participating electrical corporation
20 pursuant to this chapter, and, if so, shall implement rules and
21 procedures for enabling those transactions. These particular
22 transactions may include those with an electric service provider
23 that does not provide distribution services and, customers receiving
24 electric service through a community choice aggregation program.

25 (i)

26 (j) (1) To ensure the maximum systemic benefit from shared
27 renewable energy facilities under this chapter, electrical
28 corporations shall provide to the commission, prior to the release
29 of capacity, maps indicating locations in their service territory
30 where the addition of capacity would reduce line loss, lower
31 transmission capacity constraints, and defer or avoid transmission
32 and distribution network upgrades and construction. The
33 commission may adopt guidance in determining criteria for the
34 awarding of capacity in a manner as to reflect these benefits. The
35 commission shall also ensure that projects being awarded capacity
36 under the program are subject to protections consistent with those
37 afforded under the California Renewables Portfolio Standard
38 Program (Article 16 (commencing with Section 399.11) of Chapter
39 2.3 of Part 1).

1 (2) (A) The commission shall ensure full and timely recovery
2 of all reasonable costs incurred by an electrical corporation to
3 implement the program, including reasonable expenses for changes
4 to its billing system and handling of collections, and shall
5 determine the appropriate method of allocating those costs. The
6 commission shall approve a memorandum account to track billing
7 system and implementation costs, as well as revenue from provider
8 project applications, and may not direct an electrical corporation
9 to conduct any billing system work prior to approval of the
10 memorandum account.

11 (B) *Participating customers shall pay the administrative costs*
12 *of the electrical corporation to implement the shared renewable*
13 *self-generation program consistent with other existing similar*
14 *voluntary optional rate schedules.*

15 (3) In calculating its procurement requirements to meet the
16 requirements of the California Renewables Portfolio Standard
17 Program (Article 16 (commencing with Section 399.11) of Chapter
18 2.3 of Part 1), an electrical corporation may exclude from total
19 retail sales the kilowatthours generated by a shared renewable
20 energy facility commencing with the point in time at which the
21 facility achieves commercial operation.

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

26 2834. This chapter shall remain in effect only until January 1,
27 2019, and as of that date is repealed, unless a later enacted statute,
28 that is enacted before January 1, 2019, deletes or extends that date.

29 SEC. 6. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.