

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1937**

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**Introduced by Assembly Member Gomez**

February 12, 2016

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~~An act to add Section 25500.7 to the Public Resources Code, relating to thermal powerplants. An act to amend Sections 399.13 and 454.5 of the Public Utilities Code, relating to electricity.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1937, as amended, Gomez. ~~Thermal powerplants: certification. Electricity: procurement.~~

*The Public Utilities Act requires the Public Utilities Commission to review and accept, modify, or reject a procurement plan for each electrical corporation in accordance with specified procedures, considerations, and objectives. The act requires that electrical corporations' proposed procurement plans include certain elements, including a showing that the electrical corporations will first meet their unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.*

*This bill would require electrical corporations' proposed procurement plans to also include a showing that the electrical corporations (1), in soliciting bids for gas-fired generation resources, actively seek bids that are not located in or adjacent to disadvantaged communities and (2), in considering bids for, or negotiating bilateral contracts for, gas-fired generation resources, give priority to generation resources that are not located in or adjacent to disadvantaged communities. Because this requirement would be a part of the Public Utilities Act and because a violation of an order or decision of the commission*

*implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.*

*Existing law requires electrical corporations, in soliciting and procuring of eligible renewable energy resources for California-based projects, to give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment or those suffering from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.*

*This bill would specify that the above requirements apply to all procurement of eligible renewable energy resources for California-based projects whether the procurement occurs through all-source requests for offers, eligible renewable energy resources only requests for offers, or other procurement mechanisms.*

*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.*

~~The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission and requires it to certify sufficient sites and related facilities to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act grants the commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant to the generation facility.~~

~~This bill would require the commission, before certifying a generation facility and related facilities that use fossil fuel or natural gas resources, to assess alternative means of achieving a sufficient supply of electric power to accommodate projected demand. The bill would prohibit the commission from certifying this type of generation facility or related facilities if it finds that alternative means of achieving sufficient electric power without the use of fossil fuel or natural gas resources can be accomplished.~~

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

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

1     SECTION 1. Section 399.13 of the Public Utilities Code is  
2 amended to read:

3     399.13. (a) (1) The commission shall direct each electrical  
4 corporation to annually prepare a renewable energy procurement  
5 plan that includes the matter in paragraph (5), to satisfy its  
6 obligations under the renewables portfolio standard. To the extent  
7 feasible, this procurement plan shall be proposed, reviewed, and  
8 adopted by the commission as part of, and pursuant to, a general  
9 procurement plan process. The commission shall require each  
10 electrical corporation to review and update its renewable energy  
11 procurement plan as it determines to be necessary. The commission  
12 shall require all other retail sellers to prepare and submit renewable  
13 energy procurement plans that address the requirements identified  
14 in paragraph (5).

15     (2) Every electrical corporation that owns electrical transmission  
16 facilities shall annually prepare, as part of the Federal Energy  
17 Regulatory Commission Order 890 process, and submit to the  
18 commission, a report identifying any electrical transmission  
19 facility, upgrade, or enhancement that is reasonably necessary to  
20 achieve the renewables portfolio standard procurement  
21 requirements of this article. Each report shall look forward at least  
22 five years and, to ensure that adequate investments are made in a  
23 timely manner, shall include a preliminary schedule when an  
24 application for a certificate of public convenience and necessity  
25 will be made, pursuant to Chapter 5 (commencing with Section  
26 1001), for any electrical transmission facility identified as being  
27 reasonably necessary to achieve the renewable energy resources  
28 procurement requirements of this article. Each electrical  
29 corporation that owns electrical transmission facilities shall ensure  
30 that project-specific interconnection studies are completed in a  
31 timely manner.

32     (3) The commission shall direct each retail seller to prepare and  
33 submit an annual compliance report that includes all of the  
34 following:

35     (A) The current status and progress made during the prior year  
36 toward procurement of eligible renewable energy resources as a  
37 percentage of retail sales, including, if applicable, the status of any  
38 necessary siting and permitting approvals from federal, state, and

1 local agencies for those eligible renewable energy resources  
2 procured by the retail seller, and the current status of compliance  
3 with the portfolio content requirements of subdivision (c) of  
4 Section 399.16, including procurement of eligible renewable energy  
5 resources located outside the state and within the WECC and  
6 unbundled renewable energy credits.

7 (B) If the retail seller is an electrical corporation, the current  
8 status and progress made during the prior year toward construction  
9 of, and upgrades to, transmission and distribution facilities and  
10 other electrical system components it owns to interconnect eligible  
11 renewable energy resources and to supply the electricity generated  
12 by those resources to load, including the status of planning, siting,  
13 and permitting transmission facilities by federal, state, and local  
14 agencies.

15 (C) Recommendations to remove impediments to making  
16 progress toward achieving the renewable energy resources  
17 procurement requirements established pursuant to this article.

18 (4) The commission shall adopt, by rulemaking, all of the  
19 following:

20 (A) A process that provides criteria for the rank ordering and  
21 selection of least-cost and best-fit eligible renewable energy  
22 resources to comply with the California Renewables Portfolio  
23 Standard Program obligations on a total cost and best-fit basis.  
24 This process shall take into account all of the following:

25 (i) Estimates of indirect costs associated with needed  
26 transmission investments.

27 (ii) The cost impact of procuring the eligible renewable energy  
28 resources on the electrical corporation's electricity portfolio.

29 (iii) The viability of the project to construct and reliably operate  
30 the eligible renewable energy resource, including the developer's  
31 experience, the feasibility of the technology used to generate  
32 electricity, and the risk that the facility will not be built, or that  
33 construction will be delayed, with the result that electricity will  
34 not be supplied as required by the contract.

35 (iv) Workforce recruitment, training, and retention efforts,  
36 including the employment growth associated with the construction  
37 and operation of eligible renewable energy resources and goals  
38 for recruitment and training of women, minorities, and disabled  
39 veterans.

1 (v) (I) Estimates of electrical corporation expenses resulting  
2 from integrating and operating eligible renewable energy resources,  
3 including, but not limited to, any additional wholesale energy and  
4 capacity costs associated with integrating each eligible renewable  
5 resource.

6 (II) No later than December 31, 2015, the commission shall  
7 approve a methodology for determining the integration costs  
8 described in subclause (I).

9 (vi) Consideration of any statewide greenhouse gas emissions  
10 limit established pursuant to the California Global Warming  
11 Solutions Act of 2006 (Division 25.5 (commencing with Section  
12 38500) of the Health and Safety Code).

13 (vii) Consideration of capacity and system reliability of the  
14 eligible renewable energy resource to ensure grid reliability.

15 (B) Rules permitting retail sellers to accumulate, beginning  
16 January 1, 2011, excess procurement in one compliance period to  
17 be applied to any subsequent compliance period. The rules shall  
18 apply equally to all retail sellers. In determining the quantity of  
19 excess procurement for the applicable compliance period, the  
20 commission shall retain the rules adopted by the commission and  
21 in effect as of January 1, 2015, for the compliance period specified  
22 in subparagraphs (A) to (C), inclusive, of paragraph (1) of  
23 subdivision (b) of Section 399.15. For any subsequent compliance  
24 period, the rules shall allow the following:

25 (i) For electricity products meeting the portfolio content  
26 requirements of paragraph (1) of subdivision (b) of Section 399.16,  
27 contracts of any duration may count as excess procurement.

28 (ii) Electricity products meeting the portfolio content  
29 requirements of paragraph (2) or (3) of subdivision (b) of Section  
30 399.16 shall not be counted as excess procurement. Contracts of  
31 any duration for electricity products meeting the portfolio content  
32 requirements of paragraph (2) or (3) of subdivision (b) of Section  
33 399.16 that are credited towards a compliance period shall not be  
34 deducted from a retail seller's procurement for purposes of  
35 calculating excess procurement.

36 (iii) If a retail seller notifies the commission that it will comply  
37 with the provisions of subdivision (b) for the compliance period  
38 beginning January 1, 2017, the provisions of clauses (i) and (ii)  
39 shall take effect for that retail seller for that compliance period.

1 (C) Standard terms and conditions to be used by all electrical  
2 corporations in contracting for eligible renewable energy resources,  
3 including performance requirements for renewable generators. A  
4 contract for the purchase of electricity generated by an eligible  
5 renewable energy resource, at a minimum, shall include the  
6 renewable energy credits associated with all electricity generation  
7 specified under the contract. The standard terms and conditions  
8 shall include the requirement that, no later than six months after  
9 the commission’s approval of an electricity purchase agreement  
10 entered into pursuant to this article, the following information  
11 about the agreement shall be disclosed by the commission: party  
12 names, resource type, project location, and project capacity.

13 (D) An appropriate minimum margin of procurement above the  
14 minimum procurement level necessary to comply with the  
15 renewables portfolio standard to mitigate the risk that renewable  
16 projects planned or under contract are delayed or canceled. This  
17 paragraph does not preclude an electrical corporation from  
18 voluntarily proposing a margin of procurement above the  
19 appropriate minimum margin established by the commission.

20 (5) Consistent with the goal of increasing California’s reliance  
21 on eligible renewable energy resources, the renewable energy  
22 procurement plan shall include all of the following:

23 (A) An assessment of annual or multiyear portfolio supplies  
24 and demand to determine the optimal mix of eligible renewable  
25 energy resources with deliverability characteristics that may include  
26 peaking, dispatchable, baseload, firm, and as-available capacity.

27 (B) Potential compliance delays related to the conditions  
28 described in paragraph (5) of subdivision (b) of Section 399.15.

29 (C) A bid solicitation setting forth the need for eligible  
30 renewable energy resources of each deliverability characteristic,  
31 required online dates, and locational preferences, if any.

32 (D) A status update on the development schedule of all eligible  
33 renewable energy resources currently under contract.

34 (E) Consideration of mechanisms for price adjustments  
35 associated with the costs of key components for eligible renewable  
36 energy resource projects with online dates more than 24 months  
37 after the date of contract execution.

38 (F) An assessment of the risk that an eligible renewable energy  
39 resource will not be built, or that construction will be delayed,

1 with the result that electricity will not be delivered as required by  
2 the contract.

3 (6) In soliciting and procuring eligible renewable energy  
4 resources, each electrical corporation shall offer contracts of no  
5 less than 10 years duration, unless the commission approves of a  
6 contract of shorter duration.

7 (7) (A) In soliciting and procuring eligible renewable energy  
8 resources for California-based projects, each electrical corporation  
9 shall give preference to renewable energy projects that provide  
10 environmental and economic benefits to communities afflicted  
11 with poverty or high unemployment, or that suffer from high  
12 emission levels of toxic air contaminants, criteria air pollutants,  
13 and greenhouse gases.

14 (B) *Subparagraph (A) applies to all procurement of eligible*  
15 *renewable energy resources for California-based projects, whether*  
16 *the procurement occur through all-source requests for offers,*  
17 *eligible renewable resources only requests for offers, or other*  
18 *procurement mechanisms. This subparagraph is declaratory of*  
19 *existing law.*

20 (8) In soliciting and procuring eligible renewable energy  
21 resources, each retail seller shall consider the best-fit attributes of  
22 resource types that ensure a balanced resource mix to maintain the  
23 reliability of the electrical grid.

24 (b) A retail seller may enter into a combination of long- and  
25 short-term contracts for electricity and associated renewable energy  
26 credits. Beginning January 1, 2021, at least 65 percent of the  
27 procurement a retail seller counts toward the renewables portfolio  
28 standard requirement of each compliance period shall be from its  
29 contracts of 10 years or more in duration or in its ownership or  
30 ownership agreements for eligible renewable energy resources.

31 (c) The commission shall review and accept, modify, or reject  
32 each electrical corporation's renewable energy resource  
33 procurement plan prior to the commencement of renewable energy  
34 procurement pursuant to this article by an electrical corporation.  
35 The commission shall assess adherence to the approved renewable  
36 energy resource procurement plans in determining compliance  
37 with the obligations of this article.

38 (d) Unless previously preapproved by the commission, an  
39 electrical corporation shall submit a contract for the generation of  
40 an eligible renewable energy resource to the commission for review

1 and approval consistent with an approved renewable energy  
2 resource procurement plan. If the commission determines that the  
3 bid prices are elevated due to a lack of effective competition among  
4 the bidders, the commission shall direct the electrical corporation  
5 to renegotiate the contracts or conduct a new solicitation.

6 (e) If an electrical corporation fails to comply with a commission  
7 order adopting a renewable energy resource procurement plan, the  
8 commission shall exercise its authority to require compliance.

9 (f) (1) The commission may authorize a procurement entity to  
10 enter into contracts on behalf of customers of a retail seller for  
11 electricity products from eligible renewable energy resources to  
12 satisfy the retail seller's renewables portfolio standard procurement  
13 requirements. The commission shall not require any person or  
14 corporation to act as a procurement entity or require any party to  
15 purchase eligible renewable energy resources from a procurement  
16 entity.

17 (2) Subject to review and approval by the commission, the  
18 procurement entity shall be permitted to recover reasonable  
19 administrative and procurement costs through the retail rates of  
20 end-use customers that are served by the procurement entity and  
21 are directly benefiting from the procurement of eligible renewable  
22 energy resources.

23 (g) Procurement and administrative costs associated with  
24 contracts entered into by an electrical corporation for eligible  
25 renewable energy resources pursuant to this article and approved  
26 by the commission are reasonable and prudent and shall be  
27 recoverable in rates.

28 (h) Construction, alteration, demolition, installation, and repair  
29 work on an eligible renewable energy resource that receives  
30 production incentives pursuant to Section 25742 of the Public  
31 Resources Code, including work performed to qualify, receive, or  
32 maintain production incentives, are "public works" for the purposes  
33 of Chapter 1 (commencing with Section 1720) of Part 7 of Division  
34 2 of the Labor Code.

35 *SEC. 2. Section 454.5 of the Public Utilities Code is amended*  
36 *to read:*

37 454.5. (a) The commission shall specify the allocation of  
38 electricity, including quantity, characteristics, and duration of  
39 electricity delivery, that the Department of Water Resources shall  
40 provide under its power purchase agreements to the customers of

1 each electrical corporation, which shall be reflected in the electrical  
2 corporation's proposed procurement plan. Each electrical  
3 corporation shall file a proposed procurement plan with the  
4 commission not later than 60 days after the commission specifies  
5 the allocation of electricity. The proposed procurement plan shall  
6 specify the date that the electrical corporation intends to resume  
7 procurement of electricity for its retail customers, consistent with  
8 its obligation to serve. After the commission's adoption of a  
9 procurement plan, the commission shall allow not less than 60  
10 days before the electrical corporation resumes procurement  
11 pursuant to this section.

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

14 (1) An assessment of the price risk associated with the electrical  
15 corporation's portfolio, including any utility-retained generation,  
16 existing power purchase and exchange contracts, and proposed  
17 contracts or purchases under which an electrical corporation will  
18 procure electricity, electricity demand reductions, and  
19 electricity-related products and the remaining open position to be  
20 served by spot market transactions.

21 (2) A definition of each electricity product, electricity-related  
22 product, and procurement related financial product, including  
23 support and justification for the product type and amount to be  
24 procured under the plan.

25 (3) The duration of the plan.

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

28 (5) A competitive procurement process under which the  
29 electrical corporation may request bids for procurement-related  
30 services, including the format and criteria of that procurement  
31 process.

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

36 (7) The upfront standards and criteria by which the acceptability  
37 and eligibility for rate recovery of a proposed procurement  
38 transaction will be known by the electrical corporation prior to  
39 execution of the transaction. This shall include an expedited  
40 approval process for the commission's review of proposed contracts

1 and subsequent approval or rejection thereof. The electrical  
 2 corporation shall propose alternative procurement choices in the  
 3 event a contract is rejected.

4 (8) Procedures for updating the procurement plan.

5 (9) A showing that the procurement plan will achieve the  
 6 following:

7 (A) The electrical corporation, in order to fulfill its unmet  
 8 resource needs, shall procure resources from eligible renewable  
 9 energy resources in an amount sufficient to meet its procurement  
 10 requirements pursuant to the California Renewables Portfolio  
 11 Standard Program (Article 16 (commencing with Section 399.11)  
 12 of Chapter 2.3).

13 (B) The electrical corporation shall create or maintain a  
 14 diversified procurement portfolio consisting of both short-term  
 15 and long-term electricity and electricity-related and demand  
 16 reduction products.

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

20 (D) *The electrical corporation, in soliciting bids for gas-fired*  
 21 *generation resources, shall actively seek bids for generation*  
 22 *resources that are not located in or adjacent to disadvantaged*  
 23 *communities identified pursuant to Section 39711 of the Health*  
 24 *and Safety Code. In considering bids for, or negotiating contracts*  
 25 *for, gas-fired generation resources, the electrical corporation shall*  
 26 *provide greater priority to gas-fired generation resources that are*  
 27 *not located in or adjacent to disadvantaged communities identified*  
 28 *pursuant to Section 39711 of the Health and Safety Code.*

29 (10) The electrical corporation’s risk management policy,  
 30 strategy, and practices, including specific measures of price  
 31 stability.

32 (11) A plan to achieve appropriate increases in diversity of  
 33 ownership and diversity of fuel supply of nonutility electrical  
 34 generation.

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

37 (c) The commission shall review and accept, modify, or reject  
 38 each electrical corporation’s procurement ~~plan~~ *plan and any*  
 39 *amendments or updates to the plan to ensure that the plan contains*  
 40 *the elements required pursuant to this section, including the*

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

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

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

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

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

- 1 (1) Enable the electrical corporation to fulfill its obligation to  
2 serve its customers at just and reasonable rates.
- 3 (2) Eliminate the need for after-the-fact reasonableness reviews  
4 of an electrical corporation's actions in compliance with an  
5 approved procurement plan, including resulting electricity  
6 procurement contracts, practices, and related expenses. However,  
7 the commission may establish a regulatory process to verify and  
8 ensure that each contract was administered in accordance with the  
9 terms of the contract, and contract disputes that may arise are  
10 reasonably resolved.
- 11 (3) Ensure timely recovery of prospective procurement costs  
12 incurred pursuant to an approved procurement plan. The  
13 commission shall establish rates based on forecasts of procurement  
14 costs adopted by the commission, actual procurement costs  
15 incurred, or combination thereof, as determined by the commission.  
16 The commission shall establish power procurement balancing  
17 accounts to track the differences between recorded revenues and  
18 costs incurred pursuant to an approved procurement plan. The  
19 commission shall review the power procurement balancing  
20 accounts, not less than semiannually, and shall adjust rates or order  
21 refunds, as necessary, to promptly amortize a balancing account,  
22 according to a schedule determined by the commission. Until  
23 January 1, 2006, the commission shall ensure that any  
24 overcollection or undercollection in the power procurement  
25 balancing account does not exceed 5 percent of the electrical  
26 corporation's actual recorded generation revenues for the prior  
27 calendar year excluding revenues collected for the Department of  
28 Water Resources. The commission shall determine the schedule  
29 for amortizing the overcollection or undercollection in the  
30 balancing account to ensure that the 5 percent threshold is not  
31 exceeded. After January 1, 2006, this adjustment shall occur when  
32 deemed appropriate by the commission consistent with the  
33 objectives of this section.
- 34 (4) Moderate the price risk associated with serving its retail  
35 customers, including the price risk embedded in its long-term  
36 supply contracts, by authorizing an electrical corporation to enter  
37 into financial and other electricity-related product contracts.
- 38 (5) Provide for just and reasonable rates, with an appropriate  
39 balancing of price stability and price level in the electrical  
40 corporation's procurement plan.

1 (e) The commission shall provide for the periodic review and  
2 prospective modification of an electrical corporation's procurement  
3 plan.

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

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

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

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

33 (j) (1) Prior to its approval pursuant to Section 851 of any  
34 divestiture of generation assets owned by an electrical corporation  
35 on or after the date of enactment of the act adding this section, the  
36 commission shall determine the impact of the proposed divestiture  
37 on the electrical corporation's procurement rates and shall approve  
38 a divestiture only to the extent it finds, taking into account the  
39 effect of the divestiture on procurement rates, that the divestiture  
40 is in the public interest and will result in net ratepayer benefits.

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

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

10 (k) The commission shall direct electrical corporations to include  
11 in their proposed procurement plans the integration costs described  
12 and determined pursuant to clause (v) of subparagraph (A) of  
13 paragraph (4) of subdivision (a) of Section 399.13.

14 *SEC. 3. No reimbursement is required by this act pursuant to*  
15 *Section 6 of Article XIII B of the California Constitution because*  
16 *the only costs that may be incurred by a local agency or school*  
17 *district will be incurred because this act creates a new crime or*  
18 *infraction, eliminates a crime or infraction, or changes the penalty*  
19 *for a crime or infraction, within the meaning of Section 17556 of*  
20 *the Government Code, or changes the definition of a crime within*  
21 *the meaning of Section 6 of Article XIII B of the California*  
22 *Constitution.*

23 ~~SECTION 1. Section 25500.7 is added to the Public Resources~~  
24 ~~Code, to read:~~

25 ~~25500.7. (a) Before certifying a site and related facilities that~~  
26 ~~use fossil fuel or natural gas resources, the commission shall assess~~  
27 ~~alternative means of achieving a sufficient supply of electric power,~~  
28 ~~including, but not limited to, energy efficiency, demand response,~~  
29 ~~and distributed energy resources, to accommodate the demand~~  
30 ~~projected in the most recent forecast of statewide and service area~~  
31 ~~electric power demand.~~

32 ~~(b) The commission shall not certify a site or related facilities~~  
33 ~~that use fossil fuel or natural gas resources if it finds that alternative~~  
34 ~~means of achieving sufficient electric power without the use of~~  
35 ~~fossil fuel or natural gas resources can be accomplished.~~