

AMENDED IN SENATE APRIL 20, 2015  
AMENDED IN SENATE APRIL 16, 2015  
AMENDED IN SENATE APRIL 14, 2015  
AMENDED IN SENATE MARCH 26, 2015  
AMENDED IN SENATE MARCH 12, 2015

**SENATE BILL**

**No. 180**

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**Introduced by Senator Jackson**

February 9, 2015

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An act to add Section 25544 to the Public Resources Code, and to amend the heading of Chapter 3 (commencing with Section 8340) of Division 4.1 of, and to amend, repeal, and add Sections 8340 and 8341 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 180, as amended, Jackson. Electricity: emissions of greenhouse gases.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities are under the direction of their governing board. Existing law prohibits any load-serving entity and any local publicly owned electric utility from entering into a long-term financial commitment for baseload generation unless that baseload generation complies with a greenhouse gases emission performance standard. Existing law requires the Public Utilities Commission, by February 1, 2007, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to establish a

greenhouse gases emission performance standard for all baseload generation of load-serving entities. Existing law requires the State Energy Resources Conservation and Development Commission, by June 30, 2007, at a duly noticed public hearing and in consultation with the Public Utilities Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities.

This bill would, on July 1, 2017, replace the greenhouse gases emission performance standards for baseload generation with greenhouse gases emission performance standards for nonpeaking generation and peaking generation. The bill would require the Public Utilities Commission, by June 30, 2017, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all nonpeaking generation of load-serving entities, and a separate standard for peaking generation. The bill would require the State Energy Resources Conservation and Development Commission, by June 30, 2017, at a duly noticed public hearing and in consultation with the Public Utilities Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all nonpeaking generation of local publicly owned electric utilities, and a separate standard for peaking generation. The bill would require ~~that~~ *that, taking into consideration siting factors such as altitude, regional climate, and operating capacity,* the greenhouse gases emission performance standard for nonpeaking generation and peaking generation be established at the lowest level that the respective commissions determine to be technologically feasible without putting reliability of the electrical grid and of electric service at ~~risk~~. *risk and without hampering further deployment of renewable generation resources or reductions of greenhouse gases emissions.* The bill would require that the commissions update their respective greenhouse gases emission performance standards every 5 years based on new technology. ~~The bill would require that the greenhouse gases emission performance standard for nonpeaking generation that will take effect on July 1, 2017, establish a rate of emissions of greenhouse gases that has an initial cap that is not higher than the rate of emissions of greenhouse gases for the lowest-emitting combined-cycle natural gas powerplant in operation at that time, as specified.~~

Existing law makes any public utility that fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime. Existing law additionally makes every corporation or person other than a public utility who fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime.

Because this bill would require action by the Public Utilities Commission to implement its requirements with respect to a load-serving entity, and a violation of an order or decision of the Public Utilities Commission would be a crime, the bill would impose a state-mandated local program by expanding what is a crime.

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 that are required 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 thereto.

The California Environmental Quality Act (CEQA) generally requires all state and local governmental lead agencies to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project that they propose to carry out or approve that may result in a significant effect on the environment, that is, a substantial, or potentially substantial, adverse change in the physical conditions that exist within the area that will be affected by the project. CEQA authorizes the plan or other written documentation containing environmental information of state agencies to be submitted in lieu of an otherwise required environmental impact report if the Secretary of the Natural Resources Agency has certified the regulatory program in a specified manner.

This bill would provide that any carbon capture and storage project associated with an application for certification is a related facility for purposes of the certification of a thermal powerplant by the State Energy Resources Conservation and Development Commission and for purposes of the secretary's authority with respect to a certified regulatory program.

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 25544 is added to the Public Resources  
2 Code, to read:

3 25544. Any carbon capture and storage project associated with  
4 an application for certification is a related facility pursuant to this  
5 chapter and for purposes of Section 21080.5. For purposes of this  
6 section, “carbon capture and storage,” also known as carbon capture  
7 and sequestration, means any method that prevents the release of  
8 greenhouse gases into the atmosphere.

9 SEC. 2. The heading of Chapter 3 (commencing with Section  
10 8340) of Division 4.1 of the Public Utilities Code is amended to  
11 read:

12  
13 CHAPTER 3. GREENHOUSE GASES EMISSION PERFORMANCE  
14 STANDARD  
15

16 SEC. 3. Section 8340 of the Public Utilities Code is amended  
17 to read:

18 8340. For purposes of this chapter, the following terms have  
19 the following meanings:

20 (a) “Baseload generation” means electricity generation from a  
21 powerplant that is designed and intended to provide electricity at  
22 an annualized plant capacity factor of at least 60 percent.

23 (b) “Combined-cycle natural gas” with respect to a powerplant  
24 means the powerplant employs a combination of one or more gas  
25 turbines and steam turbines in which electricity is produced in the  
26 steam turbine from otherwise lost waste heat exiting from one or  
27 more of the gas turbines.

28 (c) “Electric service provider” means an “electric service  
29 provider” as defined in Section 218.3, but does not include  
30 corporations or persons employing cogeneration technology or

1 producing electricity from other than a conventional power source  
2 consistent with subdivision (b) of Section 218.

3 (d) “Greenhouse gases” means those gases listed in Section  
4 38505 of the Health and Safety Code.

5 (e) “Load-serving entity” means every electrical corporation,  
6 electric service provider, or community choice aggregator serving  
7 end-use customers in the state.

8 (f) “Long-term financial commitment” means either a new  
9 ownership investment in baseload generation or a new or renewed  
10 contract with a term of five or more years, which includes  
11 procurement of baseload generation.

12 (g) “Output-based methodology” means a greenhouse gases  
13 emission performance standard that is expressed in pounds of  
14 greenhouse gases emitted per megawatthour and factoring in the  
15 useful thermal energy employed for purposes other than the  
16 generation of electricity.

17 (h) “Plant capacity factor” means the ratio of the electricity  
18 produced during a given time period, measured in kilowatthours,  
19 to the electricity the unit could have produced if it had been  
20 operated at its rated capacity during that period, expressed in  
21 kilowatthours.

22 (i) “Powerplant” means a facility for the generation of electricity,  
23 and includes one or more generating units at the same location.

24 (j) “Zero- or low-carbon generating resource” means an  
25 electrical generating resource that will generate electricity while  
26 producing emissions of greenhouse gases at a rate substantially  
27 below the greenhouse gases emission performance standard, as  
28 determined by the commission.

29 (k) This section shall become inoperative on July 1, 2017, and,  
30 as of January 1, 2018, is repealed.

31 SEC. 4. Section 8340 is added to the Public Utilities Code, to  
32 read:

33 8340. For purposes of this chapter, the following terms have  
34 the following meanings:

35 (a) “Electric service provider” has the same meaning as defined  
36 in Section 218.3, but does not include corporations or persons  
37 employing cogeneration technology or producing electricity from  
38 other than a conventional power source consistent with subdivision  
39 (b) of Section 218.

1 (b) “Greenhouse gases” means those gases listed in Section  
2 38505 of the Health and Safety Code.

3 (c) “Greenhouse gases emission performance standard” means  
4 the permissible levels of emissions of greenhouse gases established  
5 pursuant to Section 8341 for nonpeaking generation and peaking  
6 generation.

7 (d) “Load-serving entity” means every electrical corporation,  
8 electric service provider, or community choice aggregator serving  
9 end-use customers in the state.

10 (e) “Long-term financial commitment” means either a new  
11 ownership investment in nonpeaking generation or peaking  
12 generation or a new or renewed contract with a term of five or  
13 more years, which includes procurement of nonpeaking generation  
14 or peaking generation.

15 (f) “Nonpeaking generation” means electricity generation from  
16 a powerplant that is designed and intended to provide electricity  
17 at an annualized plant capacity factor to be determined by the  
18 commission and the Energy Commission, in consultation with the  
19 Independent System Operator. In making this determination,  
20 consideration shall be given to both current energy generation  
21 needs, as well as energy generation needs as the greenhouse gases  
22 emission performance standards for nonpeaking generation are  
23 implemented. “Nonpeaking powerplant” means a powerplant that  
24 provides nonpeaking generation.

25 (g) “Output-based methodology” means a greenhouse gases  
26 emission performance standard that is expressed in pounds of  
27 greenhouse gases emitted per megawatthour and factoring in the  
28 useful thermal energy employed for purposes other than the  
29 generation of electricity.

30 (h) “Peaking generation” means electricity generation from a  
31 powerplant that is designed and intended to provide electricity at  
32 an annualized plant capacity factor to be determined by the  
33 commission and the Energy Commission, in consultation with the  
34 Independent System Operator. In making this determination,  
35 consideration shall be given to both current energy generation  
36 needs, as well as energy generation needs as the greenhouse gases  
37 emission performance standards for peaking generation are  
38 implemented. “Peaking powerplant” means a powerplant that  
39 provides peaking generation.

1 (i) “Plant capacity factor” means the ratio of the electricity  
2 produced during a given time period, measured in kilowatthours,  
3 to the electricity the unit could have produced if it had been  
4 operated at its rated capacity during that period, expressed in  
5 kilowatthours.

6 (j) “Powerplant” means a facility for the generation of electricity,  
7 and includes one or more generating units at the same location.

8 (k) “Zero- or low-carbon generating resource” means an  
9 electrical generating resource that will generate electricity while  
10 producing emissions of greenhouse gases at a rate substantially  
11 below the greenhouse gases emission performance standard, as  
12 determined by the commission.

13 (l) This section shall become operative on January 1, 2017.

14 SEC. 5. Section 8341 of the Public Utilities Code is amended  
15 to read:

16 8341. (a) No load-serving entity or local publicly owned  
17 electric utility may enter into a long-term financial commitment  
18 unless any baseload generation supplied under the long-term  
19 financial commitment complies with the greenhouse gases emission  
20 performance standard established by the commission, pursuant to  
21 subdivision (d), for a load-serving entity, or by the Energy  
22 Commission, pursuant to subdivision (e), for a local publicly owned  
23 electric utility.

24 (b) (1) The commission shall not approve a long-term financial  
25 commitment by an electrical corporation unless any baseload  
26 generation supplied under the long-term financial commitment  
27 complies with the greenhouse gases emission performance standard  
28 established by the commission pursuant to subdivision (d).

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

32 (3) The commission shall adopt rules to enforce the requirements  
33 of this section, for load-serving entities. The commission shall  
34 adopt procedures, for all load-serving entities, to verify the  
35 emissions of greenhouse gases from any baseload generation  
36 supplied under a contract subject to the greenhouse gases emission  
37 performance standard to ensure compliance with the standard.

38 (4) In determining whether a long-term financial commitment  
39 is for baseload generation, the commission shall consider the design  
40 of the powerplant and the intended use of the powerplant, as

1 determined by the commission based upon the electricity purchase  
2 contract, any certification received from the Energy Commission,  
3 any other permit or certificate necessary for the operation of the  
4 powerplant, including a certificate of public convenience and  
5 necessity, any procurement approval decision for the load-serving  
6 entity, and any other matter the commission determines is relevant  
7 under the circumstances.

8 (5) Costs incurred by an electrical corporation to comply with  
9 this section, including those costs incurred for electricity purchase  
10 agreements that are approved by the commission that comply with  
11 the greenhouse gases emission performance standard, are to be  
12 treated as procurement costs incurred pursuant to an approved  
13 procurement plan and the commission shall ensure timely cost  
14 recovery of those costs pursuant to paragraph (3) of subdivision  
15 (d) of Section 454.5.

16 (6) A long-term financial commitment entered into through a  
17 contract approved by the commission, for electricity generated by  
18 a zero- or low-carbon generating resource that is contracted for,  
19 on behalf of consumers of this state on a cost-of-service basis,  
20 shall be recoverable in rates, in a manner determined by the  
21 commission consistent with Section 380. The commission may,  
22 after a hearing, approve an increase from one-half to 1 percent in  
23 the return on investment by the third party entering into the contract  
24 with an electrical corporation with respect to investment in zero-  
25 or low-carbon generation resources authorized pursuant to this  
26 subdivision.

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

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

35 (3) In determining whether a long-term financial commitment  
36 is for baseload generation, the Energy Commission shall consider  
37 the design of the powerplant and the intended use of the  
38 powerplant, as determined by the Energy Commission based upon  
39 the electricity purchase contract, any certification received from  
40 the Energy Commission, any other permit for the operation of the

1 powerplant, any procurement approval decision for the load-serving  
2 entity, and any other matter the Energy Commission determines  
3 is relevant under the circumstances.

4 (d) (1) On or before February 1, 2007, the commission, through  
5 a rulemaking proceeding, and in consultation with the Energy  
6 Commission and the State Air Resources Board, shall establish a  
7 greenhouse gases emission performance standard for all baseload  
8 generation of load-serving entities, at a rate of emissions of  
9 greenhouse gases that is no higher than the rate of emissions of  
10 greenhouse gases for combined-cycle natural gas baseload  
11 generation. Enforcement of the greenhouse gases emission  
12 performance standard shall begin immediately upon the  
13 establishment of the standard. All combined-cycle natural gas  
14 powerplants that are in operation, or that have an Energy  
15 Commission final permit decision to operate as of June 30, 2007,  
16 shall be deemed to be in compliance with the greenhouse gases  
17 emission performance standard.

18 (2) In determining the rate of emissions of greenhouse gases  
19 for baseload generation, the commission shall include the net  
20 emissions resulting from the production of electricity by the  
21 baseload generation.

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

27 (4) In calculating the emissions of greenhouse gases by facilities  
28 generating electricity from biomass, biogas, or landfill gas energy,  
29 the commission shall consider net emissions from the process of  
30 growing, processing, and generating the electricity from the fuel  
31 source.

32 (5) Carbon dioxide that is injected in geological formations, so  
33 as to prevent releases into the atmosphere, in compliance with  
34 applicable laws and regulations shall not be counted as emissions  
35 of the powerplant in determining compliance with the greenhouse  
36 gases emissions performance standard.

37 (6) In adopting and implementing the greenhouse gases emission  
38 performance standard, the commission, in consultation with the  
39 Independent System Operator shall consider the effects of the

1 standard on system reliability and overall costs to electricity  
2 customers.

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

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

11 (9) An electrical corporation that provides electric service to  
12 75,000 or fewer retail end-use customers in California may file  
13 with the commission a proposal for alternative compliance with  
14 this section, which the commission may accept upon a showing  
15 by the electrical corporation of both of the following:

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

18 (B) The emissions of greenhouse gases to generate electricity  
19 for the retail end-use customers of the electrical corporation are  
20 subject to a review by the utility regulatory commission of at least  
21 one other state in which the electrical corporation provides  
22 regulated retail electric service.

23 (e) (1) On or before June 30, 2007, the Energy Commission,  
24 at a duly noticed public hearing and in consultation with the  
25 commission and the State Air Resources Board, shall establish a  
26 greenhouse gases emission performance standard for all baseload  
27 generation of local publicly owned electric utilities at a rate of  
28 emissions of greenhouse gases that is no higher than the rate of  
29 emissions of greenhouse gases for combined-cycle natural gas  
30 baseload generation. The greenhouse gases emission performance  
31 standard established by the Energy Commission for local publicly  
32 owned electric utilities shall be consistent with the standard adopted  
33 by the commission for load-serving entities. Enforcement of the  
34 greenhouse gases emission performance standard shall begin  
35 immediately upon the establishment of the standard. All  
36 combined-cycle natural gas powerplants that are in operation, or  
37 that have an Energy Commission final permit decision to operate  
38 as of June 30, 2007, shall be deemed to be in compliance with the  
39 greenhouse gases emission performance standard.

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

5 (3) In determining the rate of emissions of greenhouse gases  
6 for baseload generation, the Energy Commission shall include the  
7 net emissions resulting from the production of electricity by the  
8 baseload generation.

9 (4) The Energy Commission shall establish an output-based  
10 methodology to ensure that the calculation of emissions of  
11 greenhouse gases for cogeneration recognizes the total usable  
12 energy output of the process, and includes all greenhouse gases  
13 emitted by the facility in the production of both electrical and  
14 thermal energy.

15 (5) In calculating the emissions of greenhouse gases by facilities  
16 generating electricity from biomass, biogas, or landfill gas energy,  
17 the Energy Commission shall consider net emissions from the  
18 process of growing, processing, and generating the electricity from  
19 the fuel source.

20 (6) Carbon dioxide that is captured from the emissions of a  
21 powerplant and that is permanently disposed of in geological  
22 formations in compliance with applicable laws and regulations,  
23 shall not be counted as emissions from the powerplant.

24 (7) In adopting and implementing the greenhouse gases emission  
25 performance standard, the Energy Commission, in consultation  
26 with the Independent System Operator, shall consider the effects  
27 of the standard on system reliability and overall costs to electricity  
28 customers.

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

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

37 (f) The Energy Commission, in a duly noticed public hearing  
38 and in consultation with the commission and the State Air  
39 Resources Board, shall reevaluate and continue, modify, or replace  
40 the greenhouse gases emission performance standard when an

1 enforceable greenhouse gases emissions limit is established and  
2 in operation, that is applicable to local publicly owned electric  
3 utilities.

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

10 (h) This section shall become inoperative on July 1, 2017, and,  
11 as of January 1, 2018, is repealed.

12 SEC. 6. Section 8341 is added to the Public Utilities Code, to  
13 read:

14 8341. (a) (1) Beginning July 1, 2017, no load-serving entity  
15 or local publicly owned electric utility may enter into a new  
16 long-term financial commitment unless any nonpeaking generation  
17 supplied under the long-term financial commitment complies with  
18 the greenhouse gases emission performance standard established  
19 by the commission, pursuant to subdivision (d), for a load-serving  
20 entity, or by the Energy Commission, pursuant to subdivision (f),  
21 for a local publicly owned electric utility.

22 (2) Beginning July 1, 2017, no load-serving entity or local  
23 publicly owned electric utility may enter into a new long-term  
24 financial commitment unless any peaking generation supplied  
25 under the long-term financial commitment complies with the  
26 greenhouse gases emission performance standard established by  
27 the commission, pursuant to subdivision (e), for a load-serving  
28 entity, or by the Energy Commission, pursuant to subdivision (g),  
29 for a local publicly owned electric utility.

30 ~~(3) Once a powerplant has all necessary permits or certificates~~  
31 ~~to operate and has been deemed to comply with the applicable~~  
32 ~~greenhouse gases emission performance standard, the permitted~~  
33 ~~or certificated greenhouse gases emission performance standard~~  
34 ~~is the only greenhouse gases emission performance standard that~~  
35 ~~shall govern the powerplant's energy generation.~~

36 *(3) The nonpeaking emissions performance standard shall apply*  
37 *only to nonpeaking powerplants and the peaking emissions*  
38 *performance standard shall apply only to peaking powerplants.*

39 (b) (1) (A) The commission shall not approve a long-term  
40 financial commitment by an electrical corporation unless the

1 nonpeaking generation supplied under the long-term financial  
2 commitment complies with the greenhouse gases emission  
3 performance standard established by the commission pursuant to  
4 subdivision (d).

5 (B) The commission shall not approve a long-term financial  
6 commitment by an electrical corporation unless the peaking  
7 generation supplied under the long-term financial commitment  
8 complies with the greenhouse gases emission performance standard  
9 established by the commission pursuant to subdivision (e).

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

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

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

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

38 (6) A long-term financial commitment entered into through a  
39 contract approved by the commission, for electricity generated by  
40 a zero- or low-carbon generating resource that is contracted for,

1 on behalf of consumers of this state on a cost-of-service basis,  
2 shall be recoverable in rates, in a manner determined by the  
3 commission consistent with Section 380. The commission may,  
4 after a hearing, approve an increase from one-half to 1 percent in  
5 the return on investment by the third party entering into the contract  
6 with an electrical corporation with respect to investment in zero-  
7 or low-carbon generation resources authorized pursuant to this  
8 paragraph.

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

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

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

28 (d) (1) On or before June 30, 2017, the commission, through a  
29 rulemaking proceeding, and in consultation with the Energy  
30 Commission and the State Air Resources Board, shall establish a  
31 greenhouse gases emission performance standard for all nonpeaking  
32 generation of load-serving entities. ~~The Taking into consideration~~  
33 ~~siting factors such as altitude, regional climate, and operating~~  
34 ~~capacity, the greenhouse gases emission performance standard for~~  
35 ~~nonpeaking generation shall be established at the lowest level that~~  
36 ~~the commission determines to be technologically feasible without~~  
37 ~~putting reliability of the electrical grid and of electric service at~~  
38 ~~risk; risk and without hampering further deployment of renewable~~  
39 ~~generation resources or reductions of greenhouse gases emissions.~~  
40 Enforcement of the greenhouse gases emission performance

1 standard for nonpeaking generation shall begin on July 1, 2017.  
2 The commission, in consultation with the Energy Commission and  
3 the State Air Resources Board, shall update the greenhouse gases  
4 emission performance standard for nonpeaking generation every  
5 five years based on new technology. ~~The greenhouse gases  
6 emission performance standard for nonpeaking generation that  
7 will take effect on July 1, 2017, shall establish a rate of emissions  
8 of greenhouse gases that has an initial cap that is not higher than  
9 the rate of emissions of greenhouse gases for the lowest-emitting  
10 combined-cycle natural gas powerplant in operation at that time,  
11 taking into consideration siting factors such as altitude, regional  
12 climate, and operating capacity.~~ All combined-cycle natural gas  
13 powerplants that are in operation, or that have an Energy  
14 Commission final permit decision to operate as of June 30, 2017,  
15 shall be deemed to be in compliance with the nonpeaking emission  
16 performance standard.

17 (2) In determining the rate of emissions of greenhouse gases  
18 for nonpeaking generation, the commission shall include the net  
19 emissions resulting from the production of electricity by the  
20 nonpeaking generation.

21 (3) The commission shall establish an output-based methodology  
22 to ensure that the calculation of emissions of greenhouse gases for  
23 cogeneration recognizes the total usable energy output of the  
24 process, and includes all greenhouse gases emitted by the facility  
25 in the production of both electricity and thermal energy.

26 (4) In calculating the emissions of greenhouse gases by facilities  
27 generating electricity from biomass, biogas, or landfill gas energy,  
28 the commission shall reconsider and modify its prior decisions  
29 implementing this section, including, but not limited to,  
30 D.07-01-039, in light of the best and most recent scientific  
31 information available regarding methodologies for determining  
32 the greenhouse gas emissions associated with producing energy  
33 from different biomass feedstocks.

34 (5) Greenhouse gases that are prevented from being released  
35 into the atmosphere as a result of carbon capture and storage or  
36 carbon capture and sequestration, in compliance with applicable  
37 laws and regulations, shall not be counted as emissions of the  
38 powerplant in determining compliance with the greenhouse gases  
39 emission performance standard for nonpeaking generation.

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

6 (7) In developing and implementing the greenhouse gases  
7 emission performance standard for nonpeaking generation, the  
8 commission shall address long-term purchases of electricity from  
9 unspecified sources in a manner consistent with this chapter.

10 (8) In developing and implementing the greenhouse gases  
11 emission performance standard for nonpeaking generation, the  
12 commission shall consider and act in a manner consistent with any  
13 rules adopted pursuant to Section 824a-3 of Title 16 of the United  
14 States Code.

15 (9) An electrical corporation that provides electric service to  
16 75,000 or fewer retail end-use customers in California may file  
17 with the commission a proposal for alternative compliance with  
18 this subdivision, which the commission may accept upon a showing  
19 by the electrical corporation of both of the following:

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

22 (B) The emissions of greenhouse gases to generate electricity  
23 for the retail end-use customers of the electrical corporation are  
24 subject to a review by the utility regulatory commission of at least  
25 one other state in which the electrical corporation provides  
26 regulated retail electric service.

27 (e) (1) On or before June 30, 2017, the commission, through a  
28 rulemaking proceeding, and in consultation with the Energy  
29 Commission and the State Air Resources Board, shall establish a  
30 greenhouse gases emission performance standard for all peaking  
31 generation of load-serving entities. ~~The Taking into consideration~~  
32 ~~siting factors such as altitude, regional climate, and operating~~  
33 ~~capacity, the greenhouse gases emission performance standard for~~  
34 ~~peaking generation shall be established at the lowest level that the~~  
35 ~~commission determines to be technologically feasible without~~  
36 ~~putting reliability of the electrical grid and of electric service at~~  
37 ~~risk; risk and without hampering further deployment of renewable~~  
38 ~~generation resources or reductions of greenhouse gases emissions.~~  
39 Enforcement of the greenhouse gases emission performance  
40 standard for peaking generation shall begin on July 1, 2017. The

1 commission, in consultation with the Energy Commission and the  
2 State Air Resources Board, shall update the greenhouse gases  
3 emission performance standard for peaking generation every five  
4 years based on new technology.

5 (2) In determining the rate of emissions of greenhouse gases  
6 for peaking generation, the commission shall include the net  
7 emissions resulting from the production of electricity by the  
8 peaking generation.

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

14 (4) In calculating the emissions of greenhouse gases by facilities  
15 generating electricity from biomass, biogas, or landfill gas energy,  
16 the commission shall reconsider and modify its prior decisions  
17 implementing this section, including, but not limited to,  
18 D.07-01-039, in light of the best and most recent scientific  
19 information available regarding methodologies for determining  
20 the greenhouse gas emissions associated with producing energy  
21 from different biomass feedstocks.

22 (5) Greenhouse gases that are prevented from being released  
23 into the atmosphere as a result of carbon capture and storage or  
24 carbon capture and sequestration, in compliance with applicable  
25 laws and regulations, shall not be counted as emissions of the  
26 powerplant in determining compliance with the greenhouse gases  
27 emission performance standard for peaking generation.

28 (6) In adopting and implementing the greenhouse gases emission  
29 performance standard for peaking generation, the commission, in  
30 consultation with the Independent System Operator, shall consider  
31 the effects of the standard on system reliability and overall costs  
32 to electricity customers.

33 (7) In developing and implementing the greenhouse gases  
34 emission performance standard for peaking generation, the  
35 commission shall address long-term purchases of electricity from  
36 unspecified sources in a manner consistent with this chapter.

37 (8) In developing and implementing the greenhouse gases  
38 emission performance standard for peaking generation, the  
39 commission shall consider and act in a manner consistent with any

1 rules adopted pursuant to Section 824a-3 of Title 16 of the United  
2 States Code.

3 (9) An electrical corporation that provides electric service to  
4 75,000 or fewer retail end-use customers in California may file  
5 with the commission a proposal for alternative compliance with  
6 this subdivision, which the commission may accept upon a showing  
7 by the electrical corporation of both of the following:

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

10 (B) The emissions of greenhouse gases to generate electricity  
11 for the retail end-use customers of the electrical corporation are  
12 subject to a review by the utility regulatory commission of at least  
13 one other state in which the electrical corporation provides  
14 regulated retail electric service.

15 (f) (1) On or before June 30, 2017, the Energy Commission, at  
16 a duly noticed public hearing and in consultation with the  
17 commission and the State Air Resources Board, shall establish a  
18 greenhouse gases emission performance standard for all nonpeaking  
19 generation of local publicly owned electric utilities. ~~The Taking~~  
20 ~~into consideration siting factors such as altitude, regional climate,~~  
21 ~~and operating capacity, the~~ greenhouse gases emission  
22 performance standard for nonpeaking generation shall be  
23 established at the lowest level that the Energy Commission  
24 determines to be technologically feasible without putting reliability  
25 of the electrical grid and of electric service at ~~risk. risk and without~~  
26 ~~hampering further deployment of renewable generation resources~~  
27 ~~or reductions of greenhouse gases emissions.~~ The greenhouse  
28 gases emission performance standard for nonpeaking generation  
29 established by the Energy Commission for local publicly owned  
30 electric utilities shall be consistent with the standard adopted by  
31 the commission for load-serving entities. Enforcement of the  
32 greenhouse gases emission performance standard for nonpeaking  
33 generation shall begin on July 1, 2017. The Energy Commission,  
34 in consultation with the commission and the State Air Resources  
35 Board, shall update the greenhouse gases emission performance  
36 standard for nonpeaking generation every five years based on new  
37 technology. ~~The greenhouse gases emission performance standard~~  
38 ~~for nonpeaking generation that will take effect on July 1, 2017,~~  
39 ~~shall establish a rate of emissions of greenhouse gases that has an~~  
40 ~~initial cap that is not higher than the rate of emissions of~~

1 ~~greenhouse gases for the lowest-emitting combined-cycle natural~~  
2 ~~gas powerplant in operation at that time, taking into consideration~~  
3 ~~siting factors such as altitude, regional climate, and operating~~  
4 ~~capacity.~~ All combined-cycle natural gas powerplants that are in  
5 operation, or that have an Energy Commission final permit decision  
6 to operate as of June 30, 2017, shall be deemed to be in compliance  
7 with the nonpeaking emission performance standard.

8 (2) The greenhouse gases emission performance standard for  
9 nonpeaking generation shall be adopted by regulation pursuant to  
10 the Administrative Procedure Act (Chapter 3.5 (commencing with  
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
12 Code).

13 (3) In determining the rate of emissions of greenhouse gases  
14 for nonpeaking generation, the Energy Commission shall include  
15 the net emissions resulting from the production of electricity by  
16 the nonpeaking generation.

17 (4) The Energy Commission shall establish an output-based  
18 methodology to ensure that the calculation of emissions of  
19 greenhouse gases for cogeneration recognizes the total usable  
20 energy output of the process, and includes all greenhouse gases  
21 emitted by the facility in the production of both electricity and  
22 thermal energy.

23 (5) In calculating the emissions of greenhouse gases by facilities  
24 generating electricity from biomass, biogas, or landfill gas energy,  
25 the Energy Commission shall act consistent with the commission's  
26 reconsideration and modification of its prior decisions  
27 implementing this section, including, but not limited to,  
28 D.07-01-039, in light of the best and most recent scientific  
29 information available regarding methodologies for determining  
30 the greenhouse gas emissions associated with producing energy  
31 from different biomass feedstocks.

32 (6) Greenhouse gases that are prevented from being released  
33 into the atmosphere as a result of carbon capture and storage or  
34 carbon capture and sequestration, in compliance with applicable  
35 laws and regulations, shall not be counted as emissions of the  
36 powerplant in determining compliance with the greenhouse gases  
37 emission performance standard for nonpeaking generation.

38 (7) In adopting and implementing the greenhouse gases emission  
39 performance standard for nonpeaking generation, the Energy  
40 Commission, in consultation with the Independent System

1 Operator, shall consider the effects of the standard on system  
2 reliability and overall costs to electricity customers.

3 (8) In developing and implementing the greenhouse gases  
4 emission performance standard for nonpeaking generation, the  
5 commission shall address long-term purchases of electricity from  
6 unspecified sources in a manner consistent with this chapter.

7 (9) In developing and implementing the greenhouse gases  
8 emission performance standard for nonpeaking generation, the  
9 Energy Commission shall consider and act in a manner consistent  
10 with any rules adopted pursuant to Section 824a-3 of Title 16 of  
11 the United States Code.

12 (g) (1) On or before June 30, 2017, the Energy Commission,  
13 through a rulemaking proceeding, and in consultation with the  
14 commission and the State Air Resources Board, shall establish a  
15 greenhouse gases emission performance standard for all peaking  
16 generation of load-serving entities. ~~The Taking into consideration~~  
17 *siting factors such as altitude, regional climate, and operating*  
18 *capacity, the greenhouse gases emission performance standard for*  
19 *peaking generation shall be established at the lowest level that the*  
20 *Energy Commission determines to be technologically feasible*  
21 *without putting reliability of the electrical grid and of electric*  
22 *service at risk. risk and without hampering further deployment of*  
23 *renewable generation resources or reductions of greenhouse gases*  
24 *emissions.* The greenhouse gases emission performance standard  
25 for peaking generation established by the Energy Commission for  
26 local publicly owned electric utilities shall be consistent with the  
27 standard adopted by the commission for load-serving entities.  
28 Enforcement of the greenhouse gases emission performance  
29 standard for peaking generation shall begin on July 1, 2017. The  
30 Energy Commission, in consultation with the commission and the  
31 State Air Resources Board, shall update the greenhouse gases  
32 emission performance standard for peaking generation every five  
33 years based on new technology.

34 (2) The greenhouse gases emission performance standard for  
35 peaking generation shall be adopted by regulation pursuant to the  
36 Administrative Procedure Act (Chapter 3.5 (commencing with  
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
38 Code).

39 (3) In determining the rate of emissions of greenhouse gases  
40 for peaking generation, the Energy Commission shall include the

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

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

9 (5) In calculating the emissions of greenhouse gases by facilities  
10 generating electricity from biomass, biogas, or landfill gas energy,  
11 the Energy Commission shall act consistent with the commission's  
12 reconsideration and modification of its prior decisions  
13 implementing this section, including, but not limited to,  
14 D.07-01-039, in light of the best and most recent scientific  
15 information available regarding methodologies for determining  
16 the greenhouse gas emissions associated with producing energy  
17 from different biomass feedstocks.

18 (6) Greenhouse gases that are prevented from being released  
19 into the atmosphere as a result of carbon capture and storage or  
20 carbon capture and sequestration, in compliance with applicable  
21 laws and regulations, shall not be counted as emissions of the  
22 powerplant in determining compliance with the greenhouse gases  
23 emission performance standard for peaking generation.

24 (7) In adopting and implementing the greenhouse gases emission  
25 performance standard for peaking generation, the Energy  
26 Commission, in consultation with the Independent System  
27 Operator, shall consider the effects of the standard on system  
28 reliability and overall costs to electricity customers.

29 (8) In developing and implementing the greenhouse gases  
30 emission performance standard for peaking generation, the Energy  
31 Commission shall address long-term purchases of electricity from  
32 unspecified sources in a manner consistent with this chapter.

33 (9) In developing and implementing the greenhouse gases  
34 emission performance standard for peaking generation, the Energy  
35 Commission shall consider and act in a manner consistent with  
36 any rules adopted pursuant to Section 824a-3 of Title 16 of the  
37 United States Code.

38 (h) This section shall become operative on January 1, 2017.

39 SEC. 7. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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