

2008

PROPOSITION 7 RENEWABLE ENERGY GENERATION.

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RENEWABLE ENERGY GENERATION. INITIATIVE STATUTE.

- Requires utilities, including government-owned utilities, to generate 20% of their power from renewable energy by 2010, a standard currently applicable only to private electrical corporations.
- Raises requirement for utilities to 40% by 2020 and 50% by 2025.
- Imposes penalties, subject to waiver, for noncompliance.
- Transfers some jurisdiction of regulatory matters from Public Utilities Commission to Energy Commission.
- Fast-tracks approval for new renewable energy plants.
- Requires utilities to sign longer contracts (20 year minimum) to procure renewable energy.
- Creates account to purchase rights-of-way and facilities for the transmission of renewable energy.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- Increased state administrative costs of up to \$3.4 million annually for the regulatory activities of the California Energy Resources Conservation and Development Commission and the California Public Utilities Commission, paid for by fee revenues.
- Unknown impact on state and local government costs and revenues due to the measure’s uncertain impact on retail electricity rates. In the short term, the prospects for higher rates—and therefore higher costs, lower sales and income tax revenues, and higher local utility tax revenues—are more likely. In the long term, the impact on electricity rates, and therefore state and local government costs and revenues, is unknown.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California Electricity Providers

Californians generally receive electricity service from one of three types of providers:

- Investor-owned utilities (IOUs), which provide 68 percent of retail electricity service.
- Local, publicly owned utilities, which provide 24 percent of retail electricity service.
- Electric service providers (ESPs), which provide 8 percent of retail electricity service.

(See the nearby text box for definitions of commonly used terms throughout this analysis.)

Investor-Owned Utilities. The IOUs are owned by private investors and provide electricity service for profit. The state’s three largest electricity IOUs are Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric. Each IOU has a unique, defined geographic service area. State law requires each IOU to provide electricity service to customers within its service area. The rates that IOUs can charge their customers are determined by the California Public Utilities Commission (PUC). In addition, PUC regulates how IOUs provide electricity

Commonly Used Terms—Proposition 7
Energy Commission (Energy Resources Conservation and Development Commission). The state agency that forecasts energy supply and demand, implements energy conservation programs, conducts energy-related research, and permits certain power plants.
ESP (Electric Service Provider). A company that provides electricity service directly to customers who have chosen not to receive service from the utility that serves their geographic area.
IOU (Investor-Owned Utility). A privately owned electric utility that has a defined geographic service area and is required by state law to serve customers in that area. The Public Utilities Commission regulates the IOU’s rates and terms of service.
Market Price of Electricity. A benchmark price of electricity that is determined by a state agency according to a definition and criteria specified in state law.
Publicly Owned Utility. A local government agency, governed by a board—either elected by the public or appointed by a local elected body—that provides electricity service in its local area.
PUC (Public Utilities Commission). The state agency that regulates various types of utilities, including IOUs and ESPs.
RPS (Renewables Portfolio Standard). Requirement that electricity providers increase their share of electricity from renewable resources (such as wind or solar power) according to a specified time line.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

service to their customers. These conditions on electricity rates and service are known as “terms of service.”

Publicly Owned Utilities. A publicly owned electric utility is a local government agency, governed by a board—either elected by the public or appointed by a local elected body—that provides electricity service in its local area. Publicly owned electric utilities are not regulated by PUC. Rather, they set their own terms of service. California’s major publicly owned electric utilities include the Los Angeles Department of Water and Power and the Sacramento Municipal Utility District.

Electric Service Providers. The ESPs provide electricity service to customers who have chosen not to receive service from the utility that serves their geographic area. Instead, these customers have entered into “direct access” contracts with ESPs. Under a direct access contract, an ESP delivers electricity to the customer through the local utility’s electricity transmission wires.

There are currently around 20 registered ESPs in the state. These ESPs generally serve large industrial and commercial customers. The ESPs also provide electricity to some state and local government agencies, such as several University of California campuses and some local school districts.

The state’s regulatory authority over ESPs is limited. Although the PUC does not set an ESP’s terms of service, including the rates it charges its customers, it does require ESPs to meet a limited set of requirements, including proof that they have enough electricity supply to meet demand.

Electricity Infrastructure

Major Components. Four principal components comprise California’s system for generating and delivering electricity:

- Electricity generating facilities.
- The interstate electricity transmission grid.
- Electricity transmission lines that tie generation facilities to the grid.
- Electricity distribution lines that connect the electricity grid to electricity consumers.

Regulatory responsibility for permitting this infrastructure is held by one or more federal, state, and local agencies, depending on the particular project.

Permitting Authority. Permitting authority for an electricity generating facility is determined by the type and size of the facility to be operated.

For example, hydroelectric generating facilities, such as dams, are permitted by the Federal Energy Regulatory Commission (FERC). Thermal electricity generating facilities—primarily natural gas-fired power plants—capable of generating 50 megawatts or more of electricity are issued permits by the state’s Energy Resources Conservation and Development Commission (Energy Commission). Most other electricity generating facilities—including many types of renewable energy generating facilities, such as wind turbines and nonthermal solar power plants—are permitted by local government.

Permitting authority over electricity transmission lines depends upon the function of the line to be built, as well as the type of electricity provider that will own the line. Depending upon its function and ownership, a line may be permitted by FERC, the Energy Commission, PUC, or local government.

Energy Commission’s Permit Processing Time Frames. Existing law defines the time frames within which the Energy Commission must approve or deny an application to construct and operate an electricity generating facility or transmission line under its jurisdiction. Those time frames are 18 months for most applications, or 12 months for applications meeting certain conditions.

Energy From Renewable Resources

Renewables Portfolio Standard. Current law requires IOUs and ESPs to increase the amount of electricity they acquire (from their own sources or purchased from others) that is generated from renewable resources, such as solar and wind power. This requirement is known as the renewables portfolio standard (RPS). Each electricity provider subject to the RPS must increase its share of electricity generated from eligible renewable resources by at least 1 percent each year so that, by the end of 2010, 20 percent of its electricity comes from renewable sources. (As discussed later, publicly owned utilities are subject to a different renewable energy requirement.)

IOU Obligations Under the RPS Limited by a Cost Cap. Current law limits the amount of renewable electricity an IOU is required to acquire under the RPS, regardless of the annual RPS targets that apply to the IOU. The limit is based on two cost-related factors:

- The “market price of electricity,” as that price is defined by PUC according to criteria specified in state law.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

- The amount of money that would have been collected from electricity ratepayers under a previously operating state program to subsidize the cost of renewable electricity.

An IOU is required to acquire renewable electricity even at a cost that exceeds the PUC-defined market price of electricity. An IOU that does not acquire sufficient amounts of renewable electricity may face monetary penalties. However, an IOU is required to acquire such higher-cost renewable electricity only to the extent that the above-market costs are less than the amount of funds that the IOU would have collected under the previously operating state subsidy program. In this way, current law caps the annual cost of complying with the RPS, both to IOUs and to their customers who ultimately pay these costs through rates charged to them.

Enforcing the RPS. Current law requires PUC to enforce IOU and ESP compliance with the RPS. Only the IOUs are required to submit plans that describe how they will meet RPS targets at the least possible cost. In addition, IOUs and ESPs generally must offer contracts to purchase renewable resources of no less than ten years.

The PUC may fine an IOU or an ESP that fails to meet its year-to-year RPS target. The PUC has set the amount of the penalties at 5 cents per kilowatt hour by which the IOU or ESP falls short of its RPS target. The PUC has capped the total amount of penalties an IOU or ESP can be charged in a year at \$25 million. Current law does not direct the use of these penalty monies, which generally are deposited in the state General Fund.

Publicly Owned Utilities Set Their Own Renewable Energy Standards. Current law does not require publicly owned utilities to meet the same RPS that other electricity providers are required to meet. Rather, current law directs each publicly owned utility to put in place and enforce its own renewables portfolio standard and allows each publicly owned utility to define the electricity sources that it counts as renewable. No state agency enforces publicly owned utility compliance or places penalties on a publicly owned utility that fails to meet the renewable energy goal it has set for itself.

Progress Towards Meeting the State's RPS Goal. The different types of electricity providers vary in their progress towards achieving the state's RPS goal of having 20 percent of electricity generated from renewable sources by 2010. As of 2006 (the last year for which data are available), the IOUs together had 13 percent of their electricity generated from

renewable resources. The ESPs had 2 percent of their electricity generated from those same types of resources. Using their own, various definitions of "renewable resources," the publicly owned utilities together had nearly 12 percent of their electricity generated from renewable resources. If the current definition of renewable resources in state law that applies to IOUs and ESPs (which does not include large hydroelectric dams, for example) is applied to the publicly owned utilities, their renewable resources count falls to just over 7 percent as of 2006. However, in recent years, publicly owned utilities have increased their renewable electricity deliveries at a faster rate than have the IOUs, according to data compiled by the Energy Commission.

PROPOSAL

Overview of Measure

This measure makes a number of changes regarding RPS and the permitting of electricity generating facilities and transmission lines. Primarily, the measure:

- Establishes additional, higher RPS targets for electricity providers.
- Makes RPS requirements enforceable on publicly owned utilities.
- Changes the process for defining "market price of electricity."
- Changes the cost cap provisions that limit electricity provider obligations under the RPS.
- Expands scope of RPS enforcement.
- Revises RPS-related contracting period and obligations.
- Sets a lower penalty rate in statute and removes the cap on the total penalty amount for failure to meet RPS requirements.
- Directs the use of RPS penalty revenues.
- Expands Energy Commission's permitting authority.

Each of these components is described below.

Individual Components of Measure

Establishes Additional, Higher RPS Targets. The measure adds two new, higher RPS targets—40 percent by 2020 and 50 percent by 2025. Each electricity provider would need to meet the targets by increasing the share of electricity that it acquires that is generated from renewable energy by at least 2 percent a year, rather than the current 1 percent per year. The measure eliminates the requirement

under current law that an electricity provider compensate for failure to meet an RPS target in any given year by procuring additional renewable energy in subsequent years.

Makes RPS Requirements Enforceable on Publicly Owned Utilities. The measure requires publicly owned utilities generally to comply with the same RPS as required of IOUs and ESPs, including the current RPS goal to increase to 20 percent by 2010 the proportion of each electricity provider's electricity that comes from renewable resources. The measure also gives the Energy Commission authority to enforce RPS requirements on publicly owned utilities. The measure, however, specifies that the Energy Commission does not have the authority to approve or disapprove a publicly owned utility's renewable resources energy contract, including its terms or conditions.

Changes Process for Defining "Market Price of Electricity." The measure makes two major changes in how the market price of electricity is defined for purposes of implementing the RPS. First, the measure shifts from PUC to the Energy Commission responsibility for determining the market price of electricity. Second, the measure adds three new criteria to current-law requirements that the Energy Commission would need to consider when defining the market price of electricity. These criteria include consideration of the value and benefits of renewable resources.

Changes the Cost Cap Provisions That Limit Electricity Provider Obligations Under the RPS. As under current law, the measure provides a cost cap to limit the amount of potentially higher-cost renewable electricity that an IOU must acquire regardless of the annual RPS targets. The measure extends the cost cap limit to ESPs as well. The measure requires that an electricity provider acquire renewable electricity towards meeting annual RPS targets, or face monetary penalties, only as long as the cost of such electricity is no more than 10 percent above the Energy Commission-defined market price for electricity. The potentially higher cost of electricity generated from renewable resources would be recovered by IOUs and ESPs through rates charged to their customers, but subject to this 10 percent cost cap. Publicly owned utilities also could recover these potentially higher costs through rates charged to their customers. However, the costs of publicly owned utilities would not be subject to a cost cap similar to that which applies to IOUs and ESPs.

Expands Scope of RPS Enforcement. The measure expands PUC's current RPS-related enforcement mechanisms over IOUs to encompass ESPs. The enforcement mechanisms include review and adoption of renewable resources procurement plans, related rate-setting authority, and penalty authority. The measure grants to the Energy Commission similar RPS-related enforcement authority over publicly owned utilities.

Revises RPS-Related Contracting Period and Obligations. The measure requires all electricity providers—including publicly owned utilities—to offer renewable energy procurement contracts of no less than 20 years, with certain exceptions. The measure further requires an electricity provider to accept all offers for renewable energy that are at or below the market price of electricity as defined by the Energy Commission.

Sets Lower Penalty Rate in Statute and Removes Cap on Total Penalty Amount. The measure includes a formula to determine monetary penalties for an electricity provider that fails to sign contracts for sufficient amounts of renewable energy. The penalty formula is 1 cent per kilowatt hour by which the provider falls short of the applicable RPS target. The measure's formula therefore reflects a penalty rate that is lower than the 5 cents per kilowatt hour penalty rate currently established by the PUC. However, the measure also specifies that neither PUC nor the Energy Commission shall cap the *total* amount of penalties that may be placed on an electricity provider in any given year.

In addition, the measure states that no electricity provider shall recover the cost of any penalties through rates paid by its customers. However, it is unclear how this prohibition will apply to publicly owned utilities. This is because publicly owned utilities typically have no other source of revenues which could be used to pay a penalty other than rates paid by their customers.

Finally, the measure also specifies the conditions under which PUC or the Energy Commission, as applicable, may waive the statutorily prescribed penalty, such as when the electricity provider demonstrates a "good faith effort" to meet the RPS.

Directs Use of Penalty Monies. The measure directs that any RPS-related penalties (along with other specified revenues) be used to facilitate, through property or right-of-way acquisition and construction of transmission facilities, development of transmission infrastructure necessary to achieve RPS. The measure specifies that the Energy Commission will hold title to any properties acquired with such funds.

Expands Energy Commission’s Permitting Authority. The measure expands the Energy Commission’s existing permitting authority in two major ways, not limited to the RPS. Specifically, the measure:

- Grants the Energy Commission the authority to permit new nonthermal renewable energy power plants capable of producing 30 megawatts of electricity or more. The new permitting authority would include related infrastructure, such as electricity transmission lines that unite the plant with the transmission network grid. Currently, this permitting authority rests with local governments.
- Gives the Energy Commission the authority to permit IOUs to construct new transmission lines within the electricity transmission grid, currently a responsibility solely of the PUC at the state level. It is unclear, however, whether the measure has removed PUC’s authority in giving it to the Energy Commission.

The measure specifies that the Energy Commission is to issue a permit for a qualifying renewable energy plant or related facility within six months of the filing of an application. However, the commission is not required to issue the permit within the six-month time frame if there is evidence that the facility would cause significant harm to the environment or the electrical system or in some way does not comply with legal or other specified standards.

Declares Limited Impact on Ratepayer Electricity Bills. In its findings and declarations, the measure states that, in the “short term,” California’s investment in solar and clean energy (which would include the implementation of the measure) will result in no more than a 3-percent increase in electricity rates for consumers. However, the measure includes no specific provisions to implement or enforce this declaration.

FISCAL EFFECTS

State and Local Administrative Impacts

Increased Energy Commission Costs. The measure will increase the annual administrative costs of the Energy Commission by approximately \$2.4 million due to new responsibilities and expansion of existing duties. Under current law, the additional costs would be funded by fees paid by electricity customers.

The measure gives the Energy Commission new responsibilities which currently are carried out by PUC—namely, defining the market price of electricity and permitting IOU-related transmission lines. However, significant offsetting reductions in PUC’s costs may not result under this measure. This is because the measure does not amend the State Constitution to delete from PUC’s portfolio of responsibilities those which are given to the Energy Commission. To the extent PUC continues to carry out its existing duties, there likely will not be offsetting savings to PUC.

Increased PUC Costs. In addition, the measure’s other requirements will increase annual administrative costs of the PUC by up to \$1 million. These additional costs will result from greater workload related to the increased RPS targets. Under current law, these additional costs would be funded by fees paid by electricity customers.

Uncertain Effect on Local Government Administrative Costs. The measure shifts from local government to the Energy Commission responsibility for permitting certain renewable energy facilities. As a consequence, the measure will result in administrative cost savings of an unknown amount to local governments. However, local governments may face new costs associated with representing their interests at Energy Commission proceedings to permit renewable energy facilities. It is uncertain whether, on balance, savings to local governments will outweigh costs resulting from this measure. In any event, the overall net impact on local government administrative costs statewide is likely to be minor.

State and Local Government Costs and Revenues

The primary fiscal effect of this measure on state and local governments would result from any effect it would have on electricity rates. As discussed below, changes in electricity rates would affect both government costs and revenues.

Unknown Effect on State and Local Government Costs

Overview. Changes in electricity rates would affect government costs since state and local governments are large consumers of electricity. It is unknown, however, how the measure will affect electricity rates, both in the short term and in the longer term. This is because it is difficult to predict the relative prices of renewable resources and those of conventional electricity sources, such as natural gas. The measure could result in higher or lower electricity rates from what they would otherwise be.

Short Term. We conclude that the prospects for higher electricity rates are more likely in the short term, based on a comparison of current cost factors for key renewable resources with those for conventional resources. These cost factors include the cost of facility construction and technology, as well as day-to-day operational costs, which include the cost of inputs into the electricity generation process such as fuel. Over the short term at least, these cost factors are more likely to keep the cost of electricity generated from renewable resources, and hence the rates paid by electricity customers for that electricity, above the cost of electricity generated from conventional resources. However, the potential for higher electricity rates to the customer, including state and local governments, might be limited by the measure. This is because the measure caps the cost that privately owned electricity providers must pay for electricity from renewable resources. The cap will be set in relation to the market price of electricity, which will be determined by the Energy Commission. However, because the measure allows the commission substantial discretion in determining the market price of electricity, it is uncertain how the commission will set this cap. In turn, the effect of the cap on the price of electricity paid by customers is unknown.

Long Term. In the long run, there are factors that may be affected by the measure that have the potential either to increase or to decrease electricity rates from what they otherwise would be. For example, to the extent that the measure advances development of renewable energy resources in a manner that lowers their costs, electricity customers might experience longer-term savings. On the other hand, the same cost factors that could lead to short-term electricity rates that are higher might also lead to higher long-run electricity rates. To the extent that the measure requires electricity providers to acquire more costly electricity than they otherwise would, they will experience longer-term cost increases. It is unknown whether, on balance, factors that could increase electricity rates over

the long term will outweigh those that could decrease electricity rates over the long term. Therefore, the long-term effect of the measure on government costs is unknown.

Unknown Effect on State and Local Government Revenues

Overview. State and local *revenues* also would be affected by the measure's impact on electricity rates. This is for two reasons. First, some local governments charge a tax on the cost of electricity use within their boundaries. To the extent that the measure results in an increase or a decrease in electricity rates compared to what they would be otherwise, there would be a corresponding increase or decrease in these local tax revenues. Second, tax revenues received by governments are affected by business profits, personal income, and taxable sales—all of which in turn are affected by what individuals and businesses pay for electricity. Higher electricity costs will lower government revenues, while lower electricity costs will raise these revenues.

Short Term. On balance, as explained above, we believe that the prospects for electricity rates that are higher than they would otherwise be are more likely in the short term. However, as also is the case with state and local government costs, the measure's potential to lower state and local government revenues due to higher electricity rates might be limited by the measure's cost cap provision. Thus, for the short term, to the extent that the measure results in higher electricity rates from what they would otherwise be, local utility user tax revenues would increase and state and local sales and income tax revenues would decrease. The overall short-term net effect of the measure on state and local revenues is unknown.

Long Term. As for the long run, as explained above, the measure has the potential to either increase or decrease electricity rates. Because the measure's effect on long-term electricity rates is unknown, the measure's effect on long-term government revenues is also unknown.

★ ARGUMENT IN FAVOR OF PROPOSITION 7 ★

Vote Yes on Proposition 7.

- We can do better than dirty coal, nuclear power, and offshore drilling.

Proposition 7, The Solar and Clean Energy Act, requires all utilities to provide more solar, wind, geothermal, biomass, tidal, and small hydroelectric energy. Renewable energy standards are increased 2% per year, over seventeen years, so that half of our electricity will come from cleaner and cheaper sources by 2025.

Proposition 7 is a balanced solution that will reduce the rising costs of energy, and limit the dangers of global warming, including increased wildfires, water shortages, threats to endangered species, and illnesses from heat induced pollution.

Proposition 7 was carefully written and reviewed by legal, energy, and environmental experts.

Proposition 7 requires the California Energy Commission to designate solar and clean energy production zones, primarily in our vast deserts.

Vote Yes on Proposition 7 to:

- Make California the world leader in clean power technology.
 - Help create over 370,000 new high wage jobs.
- Proposition 7 meets all environmental protections, including:
- The California Environmental Quality Act.
 - The Desert Protection Act.
 - Local Government Reviews.

Vote Yes on Proposition 7 to help grow a strong market for large, and small, solar and renewable energy businesses. California firms have developed this proven technology that will meet our present and future electricity needs.

The independent, nonpartisan California Legislative Analyst found that administration of Proposition 7's renewable energy standards would only cost three and a half million dollars. Also, if the utilities fail to meet renewable energy standards, utilities are prohibited from passing on penalty costs to consumers.

Proposition 7's shift to solar and clean energy is guaranteed to never add more than 3% per year to our electricity bills.

So, why are the utilities spending tens of millions of dollars on "greenwashing" propaganda; sponsoring political parties; and partnering with select environmental groups to mislead us?

Because California's electric utilities have a dirty little secret: *Most of California's electricity comes from burning coal and fossil fuels.* Experts agree that 40% of global warming pollution comes from this type of electricity generation.

Electricity from dirty power plants, owned, operated, or transmitted by California utilities, releases 107 million metric tons of greenhouse gas pollution each year. That makes California the world's 16th largest global warming polluter. (Half of Los Angeles' electricity is generated with out-of-state coal.)

Remember, the utilities botched the 2001 energy crisis; then paid their top executives million dollar bonuses.

Vote Yes on Proposition 7.

- Energy from the sun, wind, tides, and heat from the earth will always be clean, free, safe, and unlimited.
 - Expensive fossil fuels, oil and gas drilling, and dangerous nuclear power, will cost Californians more.
- We need to do something major and environmentally smart, to stop global warming pollution.

Let's stop relying on foreign oil, and imported energy, so that future generations can live in peace.

California is especially blessed with renewable energy resources. We can lead the world in clean energy!

Vote Yes on Proposition 7. www.solarandcleanenergy.org

DR. DONALD W. AITKEN, Ph.D., Renewable Energy Scientist
JOHN L. BURTON, California State Senate President Pro Tem (Ret.)
JIM GONZALEZ, Chair
Californians for Solar and Clean Energy

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 7 ★

WHO DO YOU BELIEVE?

The statement above is signed by only a few individuals. But Prop. 7 is OPPOSED by dozens of organizations, representing millions of Californians, leading the fight for more renewable power and against global warming, including:

- California Solar Energy Industries Association
- California League of Conservation Voters
- Natural Resources Defense Council
- Center for Energy Efficiency and Renewable Technologies
- Environmental Defense Fund
- Union of Concerned Scientists

These organizations carefully reviewed Proposition 7 and concluded it's fatally flawed, riddled with loopholes, and will slam the brakes on renewable power development. To effectively fight global warming, we must get the solutions right. Prop. 7 gets it all wrong.

That's why 7 is also OPPOSED by:

- California Taxpayers' Association
- California Democratic Party
- California Republican Party
- Consumers Coalition of California
- Dozens of environmental, taxpayer, labor, senior, utilities, and business organizations.

READ THE FINE PRINT

It doesn't matter what proponents *claim* their measure will do. What matters is what's in the actual proposition.

- Prop. 7 forces small renewable energy companies out of California's market, eliminating competition and thousands of jobs.
 - There is NO LANGUAGE in the text of 7 that limits increases in our electricity bills.
 - Prop. 7 allows power providers to always charge 10% above market price of power, stifling competition for renewable energy.
 - Prop. 7 will cost us hundreds of millions of dollars in higher electricity and taxpayer costs, will not achieve its goals, and will stall efforts to substitute renewables for more expensive power.
- VOTE NO on 7! www.NoProp7.com

TOM ADAMS, Board President
California League of Conservation Voters
GARY T. GERBER, President
Sun Light & Power
BETTY JO TOCCOLI, President
California Small Business Association

★ ARGUMENT AGAINST PROPOSITION 7 ★

Wind, solar, and other renewable power providers; environmental, consumer, and taxpayer groups; business and labor; and global warming scientists all OPPOSE Proposition 7.

Prop. 7—paid for by an Arizona billionaire with no energy expertise—is a deeply flawed measure that will:

- NOT achieve its stated goals and will actually *disrupt* renewable power development.
- Shut small renewable energy companies out of California’s market.
- Unnecessarily increase electric bills and taxpayer costs by hundreds of millions of dollars, without achieving its stated goals.
- Create market conditions that could lead to another energy crisis.

PROP. 7 FORCES SMALL WIND AND SOLAR ENERGY COMPANIES OUT OF THE MARKET.

Prop. 7 contains a competition elimination provision shutting smaller renewable energy companies out of California’s market. Renewable power from plants under 30 megawatts won’t count toward meeting the law. Today, nearly 60 percent of contracts under California’s renewable requirements are with these small providers.

“Proposition 7 would devastate California’s small solar businesses by forcing us out of the market—eliminating a major source of clean power and thousands of jobs.” — Sue Kateley, Executive Director, California Solar Energy Industries Association

PROP. 7 ALLOWS ENERGY PRICES TO BE CONTINUALLY LOCKED IN AT 10% ABOVE MARKET RATES AND LIMITS COMPETITION.

Proposition 7 allows power providers to always charge 10% above the market price of power, stifling competition for renewable power.

And nothing in Prop. 7 limits increases in our electric bills.

PROP. 7 DISRUPTS THE RENEWABLES MARKET AND COSTS CONSUMERS AND TAXPAYERS HUNDREDS OF MILLIONS OF DOLLARS.

“Prop. 7 has many troubling provisions that will significantly increase costs for electricity consumers and harm the California economy.” — Philip Romero, Ph.D., Former Chief Economist, California Office of Planning and Research

“Prop. 7’s flawed provisions will disrupt renewable power

development, unnecessarily drive up costs, and stall efforts to substitute clean power for more expensive energy sources.” — Sheryl Carter, Energy Program Co-Director, Natural Resources Defense Council

“Proposition 7 would lead to more bureaucracy and red tape and cost taxpayers hundreds of millions of dollars.” — Teresa Casazza, President, California Taxpayers’ Association

WE’RE STILL PAYING FOR THE LAST ENERGY CRISIS.

Prop. 7 will create market conditions ripe for manipulation, much like ENRON took advantage of consumers during the energy crisis.

“California consumers are still paying almost \$1 billion each year—nearly \$100 for every electricity customer—for the last energy crisis. We don’t need a poorly-written measure that will lead to another energy crisis and higher electric bills.” — Betty Jo Toccoli, President, California Small Business Association

OPPOSED BY LEADING ENVIRONMENTAL ORGANIZATIONS AND RENEWABLE POWER PROVIDERS.

California leads the nation with clean energy standards requiring utilities to significantly increase renewable power, and we’re expanding those efforts. Prop. 7 jeopardizes this progress.

Organizations leading the fight against global warming all OPPOSE Prop. 7:

- California League of Conservation Voters
- California Solar Energy Industries Association
- Center for Energy Efficiency and Renewable Technologies
- Environmental Defense Fund
- Natural Resources Defense Council
- Union of Concerned Scientists

Vote NO on Prop. 7. www.NoProp7.com

SUE KATELEY, Executive Director
California Solar Energy Industries Association

TOM ADAMS, Board President
California League of Conservation Voters

TERESA CASAZZA, President
California Taxpayers’ Association

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 7 ★

THE FOR-PROFIT UTILITY COMPANIES OPPOSE PROPOSITION 7

BIG MONEY IS BEING USED AGAINST A PROPOSITION THAT GUARANTEES CALIFORNIANS CLEAN ELECTRICITY FOR DECADES TO COME.

Three powerful utilities (Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric) are funding the campaign against Proposition 7.

Did you notice that nowhere in their argument against Proposition 7 did they say how they would help reduce global warming? Or create the 370,000 jobs?

Instead, they make inaccurate charges to scare small renewable companies and consumers. The independent Legislative Analyst’s report doesn’t back their false claims.

JUDGE FOR YOURSELF:

- Why are both state political parties opposing Proposition 7? Could it be that the utility companies gave \$1.5 million to the state Democratic Party and \$1.1 million to the state Republican Party in the last four years? And more is coming!

- Why are some renewable energy providers opposing Proposition 7? Could it be that under Proposition 7 they’ll be required to pay their workers the prevailing wage?
- Why do hand-picked environmental organizations oppose Proposition 7? Could it be they sit on many of the same boards and committees as the utilities do?

California is the 16th largest global warming polluter. We need to change how we make electricity.

California can help solve the moral challenge of our time: global warming and climate change.

We can do it with the renewable energy resources and technology we have now. That’s the choice.

Vote YES on Proposition 7. www.Yeson7.net

DOLORES HUERTA, Co-Founder
United Farmworkers Union

CONGRESSMAN PAUL “PETE” McCLOSKEY JR. (Ret.)

JIM GONZALEZ, Chair
Californians for Solar and Clean Energy

QUICK-REFERENCE GUIDE

PROP 7 RENEWABLE ENERGY GENERATION. INITIATIVE STATUTE.

SUMMARY

Put on the Ballot by Petition Signatures

Requires government-owned utilities to generate 20% of their electricity from renewable energy by 2010, a standard currently applicable to private electrical corporations. Raises requirement for all utilities to 40% by 2020 and 50% by 2025. Fiscal Impact: Increased state administrative costs up to \$3.4 million annually, paid by fees. Unknown impact on state and local government costs and revenues due to the measure's uncertain impact on retail electricity rates.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Electricity providers in California, including publicly owned utilities, would be required to increase their proportion of electricity generated from renewable resources, such as solar and wind power, beyond the current requirement of 20 percent by 2010, to 40 percent by 2020 and 50 percent by 2025, or face specified penalties. The requirement for privately owned electricity providers to acquire renewable electricity would be limited by a cost cap requiring such acquisitions only when the cost is no more than 10 percent above a specified market price for electricity. Electricity providers who fail to meet the renewable resources requirements would potentially be subject to a 1 cent per kilowatt hour penalty rate set in statute, without a cap on the total annual penalty amount. The required time frames for approving new renewable electricity plants would be shortened.

NO A NO vote on this measure means: Electricity providers in California, except publicly owned ones, would continue to be required to increase their proportion of electricity generated from renewable resources to 20 percent by 2010. The current requirements on privately owned utilities to purchase renewable electricity would continue to be limited by an annual cost cap on the total amount of such purchases. Electricity providers would continue to be subject to the existing penalty process, in which the penalty rate (currently 5 cents per kilowatt-hour) and a total annual penalty cap (currently \$25 million per provider) are set administratively. The required time frames for approving new renewable electricity plants would not be shortened.

ARGUMENTS

PRO Vote Yes on 7 to require all utilities to provide 50% renewable electricity by 2025. Support solar, wind, and geothermal power to combat rising energy costs and global warming. Proposition 7 protects consumers, and favors solar and clean energy over expensive fossil fuels and dangerous offshore drilling.

CON Prop. 7: opposed by leading environmental groups, renewable power providers, taxpayers, business, and labor. 7 is poorly drafted, results in *less* renewable power, *higher* electric rates, and potentially another energy crisis. 7 forces small renewable companies out of California's market. Power providers could always charge 10% above market rates.
www.NoProp7.com

FOR ADDITIONAL INFORMATION

FOR
Jim Gonzalez
Californians for Solar and Clean Energy
1830 N Street
Sacramento, CA 95811
(916) 444-2425 / 449-6190
jim@jimgonzalez.com
www.Yeson7.net

AGAINST
Californians Against Another Costly Energy Scheme
(866) 811-9255
www.NoProp7.com

PROP 8 ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY

Put on the Ballot by Petition Signatures

Changes California Constitution to eliminate the right of same-sex couples to marry. Provides that only marriage between a man and a woman is valid or recognized in California. Fiscal Impact: Over next few years, potential revenue loss, mainly sales taxes, totaling in the several tens of millions of dollars, to state and local governments. In the long run, likely little fiscal impact on state and local governments.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The California Constitution will specify that only marriage between a man and a woman is valid or recognized in California.

NO A NO vote on this measure means: Marriage between individuals of the same sex would continue to be valid or recognized in California.

ARGUMENTS

PRO Proposition 8 restores what 61% of voters already approved: marriage is only between a man and a woman. Four judges in San Francisco should not have overturned the people's vote. Prop. 8 fixes that mistake by reaffirming traditional marriage, but doesn't take away any rights or benefits from gay domestic partners.

CON Equality under the law is a fundamental freedom. Regardless of how we feel about marriage, singling people out to be treated differently is wrong. Prop. 8 won't affect our schools, but it will mean loving couples are treated differently under our Constitution and denied equal protection under the law. www.NoonProp8.com

FOR ADDITIONAL INFORMATION

FOR
ProtectMarriage.com – Yes on Proposition 8
915 L Street #C-259
Sacramento, CA 95814
(916) 446-2956
www.protectmarriage.com

AGAINST
Equality for ALL
NO on Proposition 8
921 11th Street, 10th Floor
Sacramento, CA 95814
(916) 717-1411
www.NoonProp8.com

their authority. Authorizing additional resources to combat methamphetamine interdiction will prove illusory if the recipient agencies simultaneously lose funding to combat street gangs and firearm violations. Accordingly, this act is designed to protect both new and existing programs and resources and to subject all of the enumerated programs to greater public scrutiny. The objective is to establish a higher commitment to both crime deterrence and enforcement and to sustain that level of commitment.

SEC. 13. EDUCATION FUNDING GUARANTEE

No provision within this act shall be construed to alter the calculation of the minimum state obligations under Section 8 of Article XVI of the California Constitution, nor diminish the actual state and local support for K–14 schools required by law except as authorized by the Constitution.

SEC. 14. INTENT REGARDING VOTER-APPROVED DRUG TREATMENT

No provision of this act shall be construed to change the eligibility of any person to participate in a voter-approved drug treatment program.

SEC. 15. NON-SUPLANTATION CLAUSE

The funding authorized and/or made permanent under this act shall supplement and enhance the resources and capacity of public safety agencies and programs throughout California and, accordingly, the state, or any city, county, city and county, or other political subdivision is prohibited from reducing the level of funding received by any recipient agency or program below that amount received during the higher of the 2007–08 or the 2008–09 fiscal year so as to supplant or offset in whole or in part the enhanced level of funding authorized by this act.

SEC. 16. FUNDING FLOOR NOT CEILING

Nothing in this act shall preclude the Legislature from increasing or authorizing public safety appropriations greater than, or in addition to, those approved under this act.

SEC. 17. FUTURE FUNDING CLAUSE

Notwithstanding Section 13340 of the Government Code, any moneys allocated and appropriated under this act that are not encumbered or expended within any applicable period prescribed by law shall, together with the accrued interest on the amount, revert to and remain in the same account for encumbrance and expenditure for the next fiscal period. If any recipient program ceases to require funding authorized under this act or if such funds remain undistributed to eligible agencies for a period of two fiscal years after authorization, those funds shall revert to the General Fund.

SEC. 18. CONFLICTING BALLOT MEASURES

In the event that this measure relating to strengthening our communities by increasing prison sentences on violent offenders and criminal street gang members, or any other measure that reduces criminal penalties or authorizes early release of inmates, is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and conflicting provisions in the said other measure or measures shall be rendered void and without any legal effect. If this measure is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

SEC. 19. STATUTORY REFERENCES

Unless otherwise indicated, all references within this act to a statute shall be construed to reference the statute as it existed on January 1, 2008.

SEC. 20. SEVERABILITY CLAUSE

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 21. AMENDMENT CLAUSE

The provisions of this act shall not be amended by the Legislature except by a statute passed in each house by rollcall vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters. However, the Legislature may amend the provisions of this act to expand the scope of their application or to increase punishments or penalties provided herein by a statute passed by majority vote in each house thereof.

PROPOSITION 7

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends sections of the Public Utilities Code and

amends and adds sections to the Public Resources Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE SOLAR AND CLEAN ENERGY ACT OF 2008

SECTION 1. TITLE

This measure shall be known as “The Solar and Clean Energy Act of 2008.”

SEC. 2. FINDINGS AND DECLARATIONS

The people of California find and declare the following:

A. Global warming and climate change is now a real crisis. With the polar ice caps continuing to melt, temperatures rising worldwide, increasing greenhouse gases, and dramatic climate changes occurring, we are quickly reaching the tipping point. California is facing a serious threat from rising sea levels, increased drought, and melting Sierra snowpack that feed our water supply. California needs solar and clean energy to attack the climate changes which threaten our state.

B. California suffers from drought, air pollution, poor water quality, and many other environmental problems. Very little has been done because the special energy interests block change. Californians must take energy reform into their own hands. The alternative to dirty energy is solar and clean energy.

C. California can provide the leadership needed to attack global warming and climate change.

D. The Solar and Clean Energy Act will help reduce air pollution in California. With this initiative, we can help clean up our air and build a healthier, cleaner environment for our children.

E. Our traditional sources of power rely too much on fossil fuels and foreign energy that are getting more and more expensive and less reliable. This initiative will encourage investment in solar and clean energy sources that in the long-run are cheaper and are located here in California, and in the short-term, California’s investment in solar and clean energy will result in no more than a 3 percent increase in electric rates—a small price to pay for a healthier and cleaner environment.

F. The Solar and Clean Energy Act will put California on the path to energy independence by requiring all electric utilities to produce 50 percent of their electricity from clean energy sources like solar and wind by 2025. Right now, over 22 percent of California’s greenhouse gases comes from electricity generation but around 10 percent of California’s electricity comes from solar and clean energy sources, leaving Californians vulnerable to high energy costs, to political instability in the Middle East, and to being held hostage by big oil companies.

G. The Solar and Clean Energy Act encourages new technology to produce electricity. Many people are familiar with the solar power that comes from panels that can be placed on rooftops, but there is dramatic new technology that allows solar energy to be generated from concentrations of solar mirrors in the desert. These mirrors are so efficient that a large square array, eleven miles on a side, may be able to generate enough electricity to meet all of California’s needs and at a lower cost than we are paying today. The desert could lead us to energy independence.

H. The current law says we are supposed to have 20 percent solar and clean energy but we are still at around 10 percent and even big government-owned utilities like those in Los Angeles and Sacramento lobbied successfully to exempt themselves from the law. The Solar and Clean Energy Act provides incentives, tough standards, and penalties for those who do not comply.

I. The Solar and Clean Energy Act will benefit California’s economy. Building facilities for solar and clean energy sources and transmission lines to transport that electricity will create good jobs that pay the prevailing wage. These jobs will bring new investments and new jobs to California and strengthen California’s economy.

J. Global warming and California’s reliance on fossil fuels and foreign energy are a matter of statewide concern, as is the implementation of statewide standards for the sources of electricity production and the permitting of solar and clean energy plants and related transmission facilities. Accordingly, the people find that these matters are not municipal affairs, as that term is used in Section 5 of Article XI of the California Constitution, but are instead matters of statewide concern.

SEC. 3. PURPOSE AND INTENT

It is the intent of the people of California in enacting this measure to:

A. Address global warming and climate change, and protect the endangered Sierra snowpack by reducing California's carbon-based greenhouse gas emissions;

B. Tap proven technologies such as solar, geothermal, wind, biomass, and small hydroelectric to generate clean energy throughout California and meet renewable energy targets without raising taxes on any California taxpayer;

C. Require all California utilities—including government-owned utilities like the Los Angeles Department of Water and Power—to procure electricity from solar and clean energy resources, in the following timeframes:

1. 20 percent by 2010;
2. 40 percent by 2020; and,
3. 50 percent by 2025;

D. Fast-track all approvals for the development of solar and clean energy plants and related transmission facilities while guaranteeing all environmental protections—including the Desert Protection Act;

E. Create production incentives for the development and construction of solar and clean energy plants and related transmission facilities;

F. Assess penalties upon all utilities that fail to meet renewable resource targets, and prohibit these utilities from passing on these penalties to consumers;

G. Permit long-term 20 year contracts for solar and clean energy to assure marketability and financing of solar and clean energy plants;

H. Cap price impacts on consumers' electricity bills at less than 3 percent. Over the long-term, studies have shown that consumer electricity costs will decline;

I. Grant the Public Utilities Commission the powers to enforce compliance of the renewables portfolio standard upon privately owned utilities, assess penalties for non-compliance, and prohibit utilities from passing on penalties to consumers;

J. Grant the California State Energy Resources Conservation and Development Commission (the Energy Commission) the powers to:

1. Enforce compliance of the renewables portfolio standard upon government-owned utilities, assess penalties to those utilities for non-compliance, and prohibit the utilities from passing on penalties to consumers;

2. Adopt rules to fast-track all approvals for the development of solar and clean energy resources and plants while guaranteeing all environmental protections—including the Desert Protection Act;

3. Allocate funds to purchase, sell, or lease real property, personal property or rights-of-way for the development and use of the property and rights-of-way for the generation and/or transmission of solar and clean energy, and to upgrade existing transmission lines; and,

4. Identify and designate Solar and Clean Energy Zones—primarily in the desert.

SEC. 4. Section 387 of the Public Utilities Code is amended to read:

387. (a) Each governing body of a local publicly owned electric utility, as defined in Section 9604, shall ~~be responsible for implementing and enforcing a~~ *implement the* renewables portfolio standard *as established and defined in this article that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.*

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, ~~except that the electricity is delivered to the local publicly owned electric utility and not a retail seller.~~ Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard ~~if it were delivered to a retail seller.~~

(3) The utility's status in implementing a renewables portfolio standard pursuant to subdivision (a) and the utility's progress toward attaining the standard following implementation.

SEC. 5. Section 399.25 of the Public Utilities Code is amended to read:

399.25. (a) ~~Notwithstanding any other provision in Sections 1001 to 1013,~~

~~inclusive, an application of an electrical corporation for a certificate authorizing the construction of new transmission facilities shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 1003 if the commission finds that the new facility is necessary to facilitate achievement of the renewable power goals established in Article 16 (commencing with Section 399.11);~~

~~(b) (a) With respect to a transmission facility described in subdivision (a) any transmission facilities deemed to be necessary by the Energy Commission to facilitate achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11) of the Public Utilities Code, the commission shall take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission. These actions shall include, but are not limited to:~~

~~(1) Making findings, where supported by an evidentiary record, that those transmission facilities provide benefit to the transmission network and are necessary to facilitate the achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).~~

~~(2) Directing the utility to which the generator will be interconnected, where the direction is not preempted by federal law, to seek the recovery through general transmission rates of the costs associated with the transmission facilities.~~

~~(3) Asserting the positions described in paragraphs (1) and (2) to the Federal Energy Regulatory Commission in appropriate proceedings.~~

~~(4) Allowing recovery in retail rates of any increase in transmission costs incurred by an electrical corporation a retail seller resulting from the construction of the transmission facilities that are not approved for recovery in transmission rates by the Federal Energy Regulatory Commission after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.~~

~~(b) Notwithstanding subdivision (a), a retail seller shall not recover any costs paid through the Solar and Clean Energy Transmission Account to facilitate the construction of any transmission facilities.~~

SEC. 6. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The ~~Legislature~~ *people* ~~finds find~~ and ~~declares declare~~ all of the following:

(a) In order to attain ~~a the~~ *target targets* of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, ~~40 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2020, and 50 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2025,~~ and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix ~~to address global warming and climate change, and to protect the endangered Sierra snowpack,~~ it is the intent of the ~~Legislature~~ *people* that the commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state, ~~address global warming and climate change, protect the endangered Sierra snowpack,~~ and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

SEC. 7. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Conduit hydroelectric facility" means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

(b) “Delivered” and “delivery” have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) “Eligible renewable energy resource” means ~~an electric generating a solar and clean energy~~ facility that meets the definition of “in-state renewable electricity generation facility” in Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric facility of 30 megawatts or less that commenced operation before January 1, 2006, is an eligible renewable energy resource. A conduit hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource so long as it does not cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(d) “Energy Commission” means the State Energy Resources Conservation and Development Commission.

(e) “Local publicly owned electric utility” has the same meaning as provided in subdivision (d) of Section 9604.

(f) “Procure” means that a retail seller receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller’s obligation to comply with this article.

(g) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article.

(h) (1) “Renewable energy credit” means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) “Renewable energy credit” includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(i) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) “Retail seller” does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

~~(C) A local publicly owned electric utility.~~

SEC. 8. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (b) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from ~~electrical corporations~~ retail sellers, the Energy Commission shall request data from the commission. The commission shall collect data from ~~electrical corporations~~ retail sellers and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Certify, for purposes of compliance with the renewable renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that the following conditions have been satisfied:

(1) The local publicly owned electric utility that is procuring the electricity is in compliance with the requirements of Section 387.

(2) The local publicly owned electric utility has established ~~an~~ the annual renewables portfolio standard ~~targets~~ target comparable to those applicable to ~~an electrical corporation~~ required by Section 399.15, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the renewable energy credit is sold to another retail seller.

(e) Institute a rulemaking proceeding to determine the manner in which a local publicly owned electric utility will comply with Section 387 and implement the renewables portfolio standard program. The Energy Commission shall utilize the same processes and have the same powers to enforce the renewables portfolio standard program with respect to local publicly owned electric utilities as the commission has with respect to retail sellers, including, but not limited to, those processes and powers specified in Sections 399.14 and 399.15 related to the review and adoption of a renewable energy procurement plan, establishment of flexible rules for compliance, and imposition of annual penalties for failure to comply with a local publicly owned electric utility’s renewable energy procurement plan. The Energy Commission shall not have any authority to approve or disapprove the terms, conditions, or pricing of any renewable energy resources contract entered into by a local publicly owned electric utility, or authority pursuant to Section 2113.

SEC. 9. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) (1) The commission shall direct each ~~electrical corporation~~ retail seller to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each ~~electrical corporation~~ retail seller to review and update its renewable energy procurement plan as it determines to be necessary.

(2) The commission shall adopt, by rulemaking, all of the following:

~~(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.~~

~~(B)(A) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.~~

~~(C)(B) (i) Flexible rules for compliance, including rules permitting retail~~

sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply to all years, including years before and after a retail seller procures at least 20 50 percent of total retail sales of electricity from eligible renewable energy resources.

(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission that the retail seller has undertaken all reasonable efforts to do all of the following:

(I) Utilize flexible delivery points.

(II) Ensure the availability of any needed transmission capacity.

(III) If the retail seller is an electric corporation, to construct needed transmission facilities.

(IV) Nothing in this subparagraph shall be construed to revise any portion of Section 454.5.

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

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by ~~an electrical corporation~~ a retail seller shall include all of the following:

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

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

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

(4) In soliciting and procuring eligible renewable energy resources, each ~~electrical corporation~~ retail seller shall offer contracts of no less than 10 20 years in duration, unless the commission approves of a contract of shorter duration.

(5) In soliciting and procuring eligible renewable energy resources, each ~~electrical corporation~~ retail seller may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission may authorize a retail seller to enter into a contract of less than 10 20 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 20 years' duration or from new facilities commencing commercial operations on or after January 1, 2005.

(c) The commission shall review and accept, modify, or reject each ~~electrical corporation's~~ retail seller's renewable energy procurement plan prior to the commencement of renewable procurement pursuant to this article by an ~~electrical corporation~~ a retail seller.

(d) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by ~~an electrical corporation~~ a retail seller and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the ~~electrical corporation~~ retail seller to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. ~~The commission shall enforce comparable penalties on any other retail seller that fails to meet annual procurement targets established pursuant to Section 399.15.~~

(f) (1) The commission may authorize a procurement entity to enter into

contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy annual renewables portfolio standard obligations. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

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

(g) Procurement and administrative costs associated with long-term contracts entered into by ~~an electrical corporation~~ a retail seller for eligible renewable energy resources pursuant to this article, ~~and approved by the commission~~ no more than 10 percent over the market price determined by the Energy Commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se for electricity delivered on or before January 1, 2030, and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or funding pursuant to ~~Section~~ Sections 25742, 25743 or 25751.5 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(i) ~~The commission shall impose annual penalties up to the amount of the shortfall in kilowatthours multiplied by one cent (\$0.01) per kilowatthour on any retail seller that fails to meet the annual procurement targets established pursuant to Section 399.15. The commission shall not cap the penalty that may be imposed on a retail seller under this section. All penalties assessed and collected pursuant to this section shall be paid or transferred annually to the Solar and Clean Energy Transmission Account administered by the Energy Commission pursuant to Section 25751.5 of the Public Resources Code and shall be used for programs designed to foster the development of new in-state transmission and renewable electricity generation facilities. Penalties paid or transferred by any retail seller pursuant to this section shall not be recoverable by the retail seller either directly or indirectly in rates.~~

(j) ~~Penalties assessed pursuant to subdivision (i) may be waived upon a finding by the commission that there is good cause for a retail seller's failure to comply with a commission order adopting a renewable energy procurement plan. A finding by the commission that there is good cause for failure to comply with a commission order adopting a renewable energy procurement plan shall be made if the commission determines that any one of the following conditions are met:~~

(1) ~~The deadline or milestone changed due to circumstances beyond the retail seller's control, including, but not limited to, administrative and legal appeals, seller non-performance, insufficient response to a competitive solicitation for eligible renewable energy resources, and lack of effective competition.~~

(2) ~~The retail seller demonstrates a good faith effort to meet the target, including, but not limited to, executed contracts that provide future deliveries sufficient to satisfy current year deficits.~~

(3) ~~The target was missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.~~

(4) ~~The retail seller is unable to receive energy from eligible renewable energy resources due to inadequate electric transmission lines.~~

(5) ~~For any year up to and including December 31, 2013, a local publicly owned electric utility demonstrates that, despite its good faith effort, it has had insufficient time to meet the annual procurement targets established in Section 399.15.~~

SEC. 10. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, *reduce greenhouse gas emissions, address global warming and climate change, protect the endangered Sierra snowpack, and lessen California's dependence on fluctuating fuel prices*, the commission shall establish a renewables portfolio standard requiring all ~~electrical corporations~~ retail sellers to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, ~~subject to limits on the total amount of costs expended above the market prices determined in subdivision (c), to achieve the targets established under this article.~~

(b) The commission shall implement annual procurement targets for each retail seller as follows:

(1) ~~Notwithstanding Section 454.5, each~~ Each retail seller shall, pursuant to

subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional ± 2 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010, 40 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020, and 50 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2025. A retail seller with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources in the following year.

(2) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and to the extent applicable, adjusted going forward pursuant to Section 399.12.

(3) Only for purposes of establishing these targets, the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation a retail seller.

(4) A retail seller is required to accept all bilateral offers for electricity generated by eligible renewable energy resources that are less than or equal to the market prices established pursuant to subdivision (c), except that a retail seller is not obligated to accept a bilateral offer for any year in which the retail seller has procured sufficient renewable energy resources to meet its annual target established pursuant to this subdivision. In the event that a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall, subject to the limitation on costs for electrical corporations established pursuant to subdivision (d):

(c) The Energy Commission commission shall determine by a rulemaking proceeding establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources; and the methodology for making that determination that considers in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to an electrical corporation's a retail seller's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available electricity.

(4) Natural gas price forecasts that are consistent with forecasts used for procurement of other resources, including loading order resources.

(5) The value and benefits of renewable resources, including, but not limited to, hedging value and carbon emissions reductions.

(6) The value and benefits of baseload generation.

(d) A retail seller shall not be required to enter into long-term contracts with operators of eligible renewable energy resources that exceed by more than 10 percent the market prices established pursuant to subdivision (c) for electricity delivered on or before January 1, 2030. The commission shall allow a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured at no more than 10 percent over the market price established pursuant to subdivision (c). Indirect costs associated with the purchase of eligible renewable energy resources by a retail seller, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades, are recoverable in rates, as authorized by the commission. The commission shall establish, for each electrical corporation, a limitation on the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources to achieve the annual procurement targets established under this article.

(1) The cost limitation shall be equal to the amount of funds transferred to each electrical corporation by the Energy Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code and the 51.5 percent of the funds which would have been collected through January 1, 2012, from the customers of the electrical corporation based on the renewable energy public goods charge in effect as of January 1, 2007.

(2) The above market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:

(A) The contract has been approved by the commission and was selected

through a competitive solicitation pursuant to the requirements of subdivision (d) of Section 399.14:

(B) The contract covers a duration of no less than 10 years.

(C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.

(D) No purchases of renewable energy credits may be eligible for consideration as an above market cost.

(E) The above market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.

(3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c):

(4) Nothing in this section prevents an electrical corporation from voluntarily proposing to procure eligible renewable energy resources at above market prices that are not counted toward the cost limitation. Any voluntary procurement involving above market costs shall be subject to commission approval prior to the expense being recovered in rates.

(e) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(f) The Energy Commission commission shall consult with the Energy Commission commission in calculating market prices under subdivision (c). and The Energy Commission and the commission shall consult with each other in establishing other renewables portfolio standard policies.

SEC. 11. Section 1001 of the Public Utilities Code is amended to read:

1001. Except as otherwise provided in Division 15 (commencing with Section 25000) of the Public Resources Code, no No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation, water corporation, or sewer system corporation shall begin the construction of a street railroad, or of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.

This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

SEC. 12. Section 25107 of the Public Resources Code is amended to read:

25107. "Electric transmission line" means any electric powerline carrying electric power from a thermal powerplant or a solar and clean energy plant located within the state to a point of junction with any interconnected transmission system. "Electric transmission line" does not include any replacement on the existing site of existing electric powerlines with electric powerlines equivalent to such existing electric powerlines or the placement of new or additional conductors, insulators, or accessories related to such electric powerlines on supporting structures in existence on the effective date of this division or certified pursuant to this division.

SEC. 13. Section 25110 of the Public Resources Code is amended to read:

25110. "Facility" means any electric transmission line, or thermal powerplant, or solar and clean energy plant, or both electric transmission line and thermal powerplant or solar and clean energy plant, and extensions, modifications, upgrades of existing electric transmission lines, regulated according to the provisions of this division.

SEC. 14. Section 25137 is added to the Public Resources Code, to read:

25137. “Solar and clean energy plant” means any electrical generating facility using wind, solar photovoltaic, solar thermal, biomass, biogas, geothermal, fuel cells using renewable fuels, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current technologies, with a generating capacity of 30 megawatts or more, or small hydroelectric generation of 30 megawatts or less, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a renewable project or a renewable development project are not appurtenant facilities for the purposes of this division.

SEC. 15. Section 25502 of the Public Resources Code is amended to read:

25502. Each person proposing to construct a thermal powerplant, *solar and clean energy plant*, or electric transmission line on a site shall submit to the commission a notice of intention to file an application for the certification of the site and related facility or facilities. The notice shall be an attempt primarily to determine the suitability of the proposed sites to accommodate the facilities and to determine the general conformity of the proposed sites and related facilities with standards of the commission and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the commission and shall be supported by such information as the commission may require.

Any site and related facility once found to be acceptable pursuant to Section 25516 is, and shall continue to be, eligible for consideration in an application for certification without further proceedings required for a notice under this chapter.

SEC. 16. Section 25517 of the Public Resources Code is amended to read:

25517. Except as provided in Section 25501, no construction of any thermal powerplant, *solar and clean energy plant*, or electric transmission line shall be commenced by any electric utility without first obtaining certification as prescribed in this division. Any onsite improvements not qualifying as construction may be required to be restored as determined by the commission to be necessary to protect the environment, if certification is denied.

SEC. 17. Section 25522 of the Public Resources Code is amended to read:

25522. (a) Except as provided in subdivision (c) of Section 25520.5 and Section 25550, within 18 months of the filing of an application for certification, or within 12 months if it is filed within one year of the commission’s approval of the notice of intent, or at any later time as is mutually agreed by the commission and the applicant, the commission shall issue a written decision as to the application.

(b) The commission shall determine, within 45 days after it receives the application, whether the application is complete. If the commission determines that the application is complete, the application shall be deemed filed for purposes of this section on the date that this determination is made. If the commission determines that the application is incomplete, the commission shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the application, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the application complete. The application shall be deemed filed on the date when the commission determines the application is complete if the commission has adopted regulations specifying the informational requirements for a complete application, but if the commission has not adopted regulations, the application shall be deemed filed on the last date the commission receives any additional data that completes the application.

SEC. 18. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section

25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant or *solar and clean energy plant* except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

SEC. 19. Section 25540.6 of the Public Resources Code is amended to read:

25540.6. (a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant that will employ natural gas-fired technology, or a *solar and clean energy plant* ~~solar thermal powerplant~~.

(2) A modification of an existing facility.

(3) A thermal powerplant or *solar and clean energy plant* which it is only technologically or economically feasible to site at or near the energy source.

(4) A thermal powerplant with a generating capacity of up to 100 megawatts.

(5) A thermal powerplant or *solar and clean energy plant* designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant’s site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial site without requiring a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

SEC. 20. Section 25541 of the Public Resources Code is amended to read:

25541. The commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts, and modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, and *solar and clean energy plants*, if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

SEC. 21. Section 25541.1 of the Public Resources Code is amended to read:

25541.1. It is the intent of the Legislature ~~people~~ to encourage the development of thermal powerplants or *solar and clean energy plants* using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially

scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a thermal powerplant or solar and clean energy plant using resource recovery technology addresses both problems by doing all of the following:

(a) Generating electricity from a nonfossil fuel of an ample, growing supply.

(b) Conserving landfill space, thus reducing waste disposal costs.

(c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

SEC. 22. Section 25542.5 is added to the Public Resources Code, to read: 25542.5. *The Energy Commission shall, on an annual basis, publish a report that identifies and designates Solar and Clean Energy Zones in the state of California based on geographic areas identified by the Energy Commission's Public Interest Energy Research Program as having potential for solar and clean energy resources.*

SEC. 23. Section 25550 is added to the Public Resources Code, to read: 25550. (a) *Notwithstanding subdivision (a) of Section 25522, and Section 25540.6, the commission shall establish a process to issue its final certification for any solar and clean energy plant and related facilities within six months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical transmission and distribution system and will comply with all applicable standards, ordinances, or laws. For purposes of this section, filing has the same meaning as in Section 25522.*

(b) *Solar and clean energy plants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed solar and clean energy plant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed solar and clean energy plant and related facilities.*

(c) *After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the solar and clean energy plant and related facilities will likely result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, or law. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.*

(d) *For an application that the commission accepts under this section, all local, regional, and state agencies that would have had jurisdiction over the proposed solar and clean energy plant and related facilities, but for the exclusive jurisdiction of the commission, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.*

(e) *Applicants of solar and clean energy plants and related facilities that demonstrate superior environmental or efficiency performance shall receive priority in review.*

(f) *With respect to a solar and clean energy plant and related facilities reviewed under the process established by this section, it shall be shown that the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.*

(g) *With respect to a solar and clean energy plant and related facilities reviewed under the process established by this section, it shall be shown that the solar and clean energy plant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.*

(h) *This section shall not apply to an application filed with the commission on or before January 1, 2009.*

(i) *To implement this section, the commission may adopt emergency*

regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(j) *All solar and clean energy plants receiving certification pursuant to this section shall be considered a public works project subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.*

SEC. 24. Chapter 6.6 (commencing with Section 25560) is added to Division 15 of the Public Resources Code, to read:

25560. *No electrical corporation as defined in Section 218 of the Public Utilities Code shall begin the construction of a transmission line or of any extension, modification, or upgrade thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.*

This chapter shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its transmission line or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line or system, interferes or is about to interfere with the operation of the line or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, and in consultation with the Public Utilities Commission make such order and prescribe such terms and conditions for the location of the lines or systems affected as to it may seem just and reasonable.

25561. (a) *The commission shall exempt the construction of any line or system, or extension thereof, located outside the boundaries of the state from the requirements of Section 25560, upon the application of the public utility constructing that line or system, or extension thereof, if the public utility derives 75 percent or more of its operating revenues from outside the state, as recorded in the fiscal period immediately before the filing of the application, unless the commission determines that the public interest requires that the construction should not be exempt from Section 25560.*

(b) *Except as provided in subdivision (c), the commission shall make the determination denying the exemption, as specified in subdivision (a), within 90 days after the public utility files the application for exemption with the commission. If the commission fails to make this determination within that 90-day period, the construction of that line or system, or extension thereof, is exempt from the requirements of Section 25560.*

(c) *The commission and the public utility filing the application for exemption may, if both agree, extend the time period within which the commission is required to make the determination denying the exemption, for not more than an additional 60 days after the expiration of the 90-day period specified in subdivision (b).*

25562. (a) *The commission, as a basis for granting any certificate pursuant to Section 25560, shall give consideration to the following factors:*

(1) *Community values.*

(2) *Recreational and park areas.*

(3) *Historical and aesthetic values.*

(4) *Influence on environment, except that in the case of any line or system or extension thereof located in another state which will be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code) or similar state laws in the other state, the commission shall not consider influence on the environment unless any emissions or discharges therefrom would have a significant influence on the environment of this state.*

(5) *Proximity to and related effect on populated areas and whether alternative locations are reasonably available and appropriate.*

(6) *Value and benefits of baseload generation.*

(b) *With respect to any electrical transmission line required to be constructed, modified, or upgraded to provide transmission from a thermal powerplant or a solar and clean energy plant, and for which a certificate is required pursuant to the provisions of Division 15 (commencing with Section*

25000), the decision granting such other certificate shall be conclusive as to all matters determined thereby and shall take the place of the requirement for consideration by the commission of the six factors specified in subdivision (a) of this section.

(c) As a condition for granting any certificate pursuant to Section 25560, the commission shall require compliance with the California Desert Protection Act of 1994 (commencing with Section 410aaa of Title 16 of the United States Code).

25563. In considering an application for a certificate for an electric transmission facility pursuant to Section 25560, the commission shall consider cost-effective alternatives to transmission facilities that meet the need for an efficient, reliable, and affordable supply of electricity, including, but not limited to, demand-side alternatives such as targeted energy efficiency, ultraclean distributed generation, as defined in Section 353.2 of the Public Utilities Code, and other demand reduction resources. The provisions of this section shall not apply to any electrical transmission line required to be constructed, modified, or upgraded to provide transmission from a solar and clean energy plant.

25564. Every electrical corporation submitting an application to the commission for a certificate authorizing the new construction of any electric transmission line or extension, not subject to the provisions of Chapter 6 (commencing with Section 25500), shall include all of the following information in the application in addition to any other required information:

(a) Preliminary engineering and design information on the project. The design information provided shall include preliminary data regarding the operating characteristics of the line or extension.

(b) A project implementation plan showing how the project would be contracted for and constructed. This plan shall show how all major tasks would be integrated and shall include a timetable identifying the design, construction, completion, and operation dates for each major component of the line or extension.

(c) An appropriate cost estimate, including preliminary estimates of the costs of financing, construction, and operation of the line or extension.

(d) The corporation shall demonstrate the financial impact of the line or extension construction on the corporation's ratepayers, stockholders, and on the cost of the corporation's borrowed capital. The cost analyses shall be performed for the projected useful life of the line or extension.

(e) A design and construction management and cost control plan which indicates the contractual and working responsibilities and interrelationships between the corporation's management and other major parties involved in the project. This plan shall also include a construction progress information system and specific cost controls.

25565. Every electrical corporation submitting an application to the commission for a certificate authorizing the new construction of an electric transmission line or extension, which is subject to the provisions of Chapter 6 (commencing with Section 25500), shall include in the application the information specified in subdivisions (b), (c), and (e) of Section 25564, in addition to any other required information. The corporation may also include in the application any other information specified in Section 25564.

25566. Before any certificate may issue under this chapter, every applicant for a certificate shall file in the office of the commission a certified copy of the applicant's articles of incorporation or charter. Every applicant for a certificate shall file in the office of the commission such evidence as is required by the commission to show that the applicant has received the required consent, franchise, or permit of the proper county, city and county, city, or other public authority.

25567. (a) The commission may, with or without hearing, issue the certificate as requested for, or refuse to issue it, or issue it for the construction of a portion only of the contemplated electric transmission line or extension thereof, or for the partial exercise only of the right or privilege, and may attach to the exercise of the rights granted by the certificate such terms and conditions, including provisions for the acquisition by the public of the franchise or permit and all rights acquired thereunder and all works constructed or maintained by authority thereof, as in its judgment the public convenience and necessity require; provided, however, that before issuing or refusing to issue the certificate, the commission shall hold one or more hearings addressing any issues raised in a timely application for a hearing by any person entitled to be heard.

(b) When the commission issues a certificate for the new construction of an electric transmission line or extension, the certificate shall specify the operating and cost characteristics of the transmission line or extension, including, but not limited to, the size, capacity, cost, and all other characteristics

of the transmission line or extension which are specified in the information which the electrical corporations are required to submit, pursuant to Section 25564 or 25565.

(c) Notwithstanding any other provision in this chapter, an application for a certificate authorizing the construction of new transmission facilities shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 25564 if the commission finds that the new facility is necessary to facilitate achievement of the renewables portfolio standard as established in Article 16 (commencing with Section 399.11) of the Public Utilities Code and the eligible renewable energy resources requirement as established in Chapter 8.6 (commencing with Section 25740) of this division.

25568. (a) Whenever the commission issues to an electrical corporation a certificate authorizing the new construction of a transmission line, or of any extension, modification, or upgrade thereof estimated to cost greater than fifty million dollars (\$50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

(b) After the certificate has been issued, the corporation may apply to the commission for an increase in the maximum cost specified in the certificate. The commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application.

(c) After construction has commenced, the corporation may apply to the commission for authorization to discontinue construction. After a showing to the satisfaction of the commission that the present or future public convenience and necessity no longer require the completion of construction of the project, and that the construction costs incurred were reasonable and prudent, the commission may authorize discontinuance of construction and the Public Utilities Commission may authorize recovery of those construction costs which the commission determines were reasonable and prudent.

(d) In any decision by the Public Utilities Commission establishing rates for an electrical corporation reflecting the reasonable and prudent costs of the new construction of any transmission line, or of any extension, modification, or upgrade thereof, when the commission has found and determined that the addition or extension is used and useful, the Public Utilities Commission shall consider whether or not the actual costs of construction are within the maximum cost specified by the commission.

SEC. 25. Section 25740 of the Public Resources Code is amended to read:

25740. It is the intent of the Legislature people in establishing this program, to address global warming and climate change, and protect the endangered Sierra snowcaps by increasing increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20 percent of total retail sales of electricity in California per year by December 31, 2010-, at least 40 percent of total retail sales of electricity in California per year by December 31, 2020, and at least 50 percent of total retail sales of electricity in California per year by December 31, 2025.

SEC. 26. Section 25740.1 is added to the Public Resources Code, to read:

25740.1. The people find that the construction of electric transmission facilities necessary to facilitate the achievement of California's renewables portfolio standard targets will provide the maximum economic benefit to all customer classes that funded the New Renewable Resources Account.

SEC. 27. Section 25743 of the Public Resources Code is amended to read:

25743. (a) The commission shall terminate all production incentives awarded from the New Renewable Resources Account prior to January 1, 2002, unless the project began generating electricity by January 1, 2007.

(b) (1) The commission shall, by March 1, 2008, transfer to electrical corporations serving customers subject to the renewable energy public goods charge the remaining unencumbered funds in the New Renewable Resources Account.

(2) The Public Utilities Commission shall ensure that each electrical corporation allocates funds received from the commission pursuant to paragraph (1) in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account. In considering and approving each electrical corporation's proposed allocations, and

consistent with Section 25740.1, the Public Utilities Commission shall encourage and give the highest priority to allocations for the construction of, or payment to supplement the construction of, any new or modified electric transmission facilities necessary to facilitate the state achieving its renewables portfolio standard targets.

(c) All projects receiving funding, in whole or in part, pursuant to this section shall be considered public works projects subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.

SEC. 28. Section 25745 is added to the Public Resources Code, to read:

25745. The Energy Commission shall use its best efforts to attract and encourage investment in solar and clean energy resources, facilities, research and development from companies based in the United States to fulfill the purposes of this chapter.

SEC. 29. Section 25751.5 is added to the Public Resources Code, to read:

25751.5. (a) The Solar and Clean Energy Transmission Account is hereby established within the Renewable Resources Trust Fund.

(b) Beginning January 1, 2009, the total annual adjustments adopted pursuant to subdivision (d) of Section 399.8 of the Public Utilities Code shall be allocated to the Solar and Clean Energy Transmission Account.

(c) Funds in the Solar and Clean Energy Transmission Account shall be used, in whole or in part, for the following purposes:

(1) The purchase of property or right-of-way pursuant to the commission's authority under Chapter 8.9 (commencing with Section 25790).

(2) The construction of, or payment to supplement the construction of, any new or modified electric transmission facilities necessary to facilitate the state achieving its renewables portfolio standard targets.

(d) Title to any property or project paid for in whole pursuant to this section shall vest with the commission. Title to any property or project paid for in part pursuant to this section shall vest with the commission in a part proportionate to the commission's share of the overall cost of the property or project.

(e) Funds deposited in the Solar and Clean Energy Transmission Account shall be used to supplement, and not to supplant, existing state funding for the purposes authorized by subdivision (c).

(f) All projects receiving funding, in whole or in part, pursuant to this section shall be considered public works projects subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.

SEC. 30. Chapter 8.9 (commencing with Section 25790) is added to Division 15 of the Public Resources Code, to read:

25790. The Energy Commission may, for the purposes of this chapter, purchase and subsequently sell, lease to another party for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber, or otherwise dispose of any real or personal property or any interest in property. Any such lease or sale shall be conditioned on the development and use of the property for the generation and/or transmission of renewable energy.

25791. Any lease or sale made pursuant to this chapter may be made without public bidding but only after a public hearing.

SEC. 31. Severability

The provisions of this act are severable. If any provision of this act, or part thereof, is for any reason held to be invalid under state or federal law, the remaining provisions shall not be affected, but shall remain in full force and effect.

SEC. 32. Amendment

The provisions of this act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SEC. 33. Conflicting Measures

(a) This measure is intended to be comprehensive. It is the intent of the people that in the event that this measure and another initiative measure relating to the same subject appear on the same statewide election ballot, the provisions of the other measure or measures are deemed to be in conflict with this measure. In the event this measure shall receive the greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-

executing and given full force of law.

SEC. 34. Legal Challenge

Any challenge to the validity of this act must be filed within six months of the effective date of this act.

PROPOSITION 8

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

SECTION 1. Title

This measure shall be known and may be cited as the "California Marriage Protection Act."

SECTION 2. Section 7.5 is added to Article I of the California Constitution, to read:

SEC. 7.5. *Only marriage between a man and a woman is valid or recognized in California.*

PROPOSITION 9

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the California Constitution and amends and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

VICTIMS' BILL OF RIGHTS ACT OF 2008: MARSY'S LAW

SECTION 1. TITLE

This act shall be known, and may be cited as, the "Victims' Bill of Rights Act of 2008: Marsy's Law."

SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California hereby find and declare all of the following:

1. Crime victims are entitled to justice and due process. Their rights include, but are not limited to, the right to notice and to be heard during critical stages of the justice system; the right to receive restitution from the criminal wrongdoer; the right to be reasonably safe throughout the justice process; the right to expect the government to properly fund the criminal justice system, so that the rights of crime victims stated in these Findings and Declarations and justice itself are not eroded by inadequate resources; and, above all, the right to an expeditious and just punishment of the criminal wrongdoer.

2. The People of the State of California declare that the "Victims' Bill of Rights Act of 2008: Marsy's Law" is needed to remedy a justice system that fails to fully recognize and adequately enforce the rights of victims of crime. It is named after Marsy, a 21-year-old college senior at U.C. Santa Barbara who was preparing to pursue a career in special education for handicapped children and had her whole life ahead of her. She was murdered on November 30, 1983. Marsy's Law is written on behalf of her mother, father, and brother, who were often treated as though they had no rights, and inspired by hundreds of thousands of victims of crime who have experienced the additional pain and frustration of a criminal justice system that too often fails to afford victims even the most basic of rights.

3. The People of the State of California find that the "broad reform" of the criminal justice system intended to grant these basic rights mandated in the Victims' Bill of Rights initiative measure passed by the electorate as Proposition 8 in 1982 has not occurred as envisioned by the people. Victims of crime continue to be denied rights to justice and due process.

4. An inefficient, overcrowded, and arcane criminal justice system has failed to build adequate jails and prisons, has failed to efficiently conduct court proceedings, and has failed to expeditiously finalize the sentences and punishments of criminal wrongdoers. Those criminal wrongdoers are being released from custody after serving as little as 10 percent of the sentences imposed and determined to be appropriate by judges.

5. Each year hundreds of convicted murderers sentenced to serve life in prison seek release on parole from our state prisons. California's "release from prison parole procedures" torture the families of murdered victims and waste