07-0066
Amdt. #1S

October 22, 2007

RECEIVED
OCT 22 2007
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street
Sacramento, CA 95814

Re: Amendment to Version 1 of *The Solar and Clean Energy Act of 2008*
Proposed Initiative Number 07-0066

Dear Initiative Coordinator:

Please find enclosed an amendment to the text of Version 1 of The Solar and Clean Energy Act of 2008 (the "Act"), Proposed Initiative Number 07-0066, previously submitted to your office for title and summary on October 5, 2007. The amendment reflects and incorporates changes to the California Public Utilities Code and Public Resources Code made under the newly-enacted Senate Bill 1036 while maintaining the original purpose and intent of the Act.

The amendment is submitted within 15 days of your office's receipt of the initial draft petition and thus, does not constitute a new measure.

Please contact my attorney, Randall W. Keen, if you have any questions. Mr. Keen can be reached at the law firm of Manatt, Phelps and Phillips, 11355 W. Olympic Boulevard, Los Angeles, California 90064, (310) 312-4000.

Thank you.

Sincerely,

Jim Gonzalez

41168272.1

Version 1 (revised)

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, repeals and adds sections to the Public Utilities Code and 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 as follows**:**

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 as follows:

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.

~~(c)~~*(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 as follows:

399.11. The ~~Legislature~~ *People* find~~s~~ and declare~~s~~ all of the following:

(a) In order to attain ~~a~~ *the* target*s* 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 as follows:

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

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

(b) "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 require a new or increased appropriation or diversion of water from a watercourse.

(B) Notwithstanding subparagraph (A), an existing conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource. A new conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource so long as it does not require a new or increased appropriation or diversion of water from a watercourse.

(3) 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.

(c) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

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

(e) "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.

(f) "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.

(g)(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.

(h) "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 as follows:

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 as follows:

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 1 cent 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 as follows:

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 ~~1~~ *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 as follows:

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 as follows:

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 as follows:

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 of the Public Resources Code is added to read as follows:

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 as follows:

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 as follows:

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 as follows:

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 as follows:

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 as follows:

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 as follows:

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 as follows:

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 of the Public Resources Code is added to read as follows:

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 of the Public Resources Code is added to read as follows:

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 of Division 15 of the Public Resources Code is added to read as follows:

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 Article 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 as follows:

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 of the Public Resources Code is added as follows:

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 as follows:

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 of the Public Resources Code is added to read as follows:

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 of the Public Resources Code is added to read as follows:

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

(b) Beginning January 1, 2009, the total annual adjustments adopted pursuant to Section 399.8(d) 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 of Division 15 of the Public Resources Code;

(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 section (b).

(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 of Division 15 of the Public Resources Code is added to read as follows:

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 vote, 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.

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