

AMENDED IN SENATE JULY 6, 2004

AMENDED IN SENATE JUNE 24, 2004

AMENDED IN ASSEMBLY MAY 24, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2006

Introduced by Assembly Member Nunez

February 13, 2004

An act to amend Sections 365 and 366 of, ~~and to add Article 17 to add Chapter 2.4~~ (commencing with Section 400) to ~~Chapter 2.3~~ of Part 1 of Division 1 of, and to repeal ~~Section Sections 330 and 366~~ of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2006, as amended, Nunez. Electrical restructuring: Reliable Electric Service Act of 2004.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix just and reasonable rates and charges. Under existing law, a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public. The existing Public Utilities Act requires the commission, pursuant to electrical restructuring, to authorize direct transactions between electricity suppliers and retail end-use customers.

However, other existing law suspends the right of retail end-use customers to acquire service from certain electricity suppliers after a period of time to be determined by the commission, until the Department of Water Resources no longer supplies electricity under that law.

This bill would repeal the requirement that the commission authorize direct transactions between electricity suppliers and retail end-use customers and would instead ~~establish~~ *authorize the commission to adopt rules and regulations to implement* a core and noncore model under which the utility's noncore customers may elect to receive electric service from the electrical corporation or from an electric service provider. An electrical corporation would have no obligation to procure electricity or meet resource adequacy requirements for noncore customers that elect to enter into a direct transaction for the purchase of electricity. The bill would require electrical corporations to file *at least every 3 years*, and for the commission to approve, a long-term integrated resource plan, as specified, sufficient to fulfill the utility's duty to serve while achieving best value for ratepayers at just and reasonable rates. The bill would provide for the recovery of initial capital investment made pursuant to an approved long-term integrated resource plan. The bill would require that no costs incurred by the electrical corporation to implement direct transactions on behalf of direct access customers, shall be recovered from the utility's bundled customers. The bill would require the commission, by July 1, 2005, to prepare and submit to the Governor and the Legislature, a comprehensive plan to streamline the transmission siting process. The bill would require the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements to ensure adequate physical generating capacity is available, dedicated to serve all load requirements to meet peak demand plus requisite planning and operating reserves, and would require the commission to implement and enforce these resource adequacy requirements in a nondiscriminatory manner on all load serving entities, excluding a local publicly owned electric utility, the State Water Project, and customer generation, as defined. The bill would require that the cost of meeting resource adequacy requirements, including the costs associated with system reliability and local area reliability, be equitably borne and recoverable from all customers on a pro rata, fully compensatory basis. The bill would authorize the commission to adopt rules and regulations implementing a core and



noncore model for retail electric service meeting certain requirements, by December 31, 2005, and would require the commission to adopt rules and regulations to ensure that electrical corporations meet their obligation to provide customers with reliable electric service at just and reasonable rates.

Existing law states the intent of the Legislature and makes various findings and declarations with respect to electrical restructuring.

This bill would repeal that statement of intent and the legislative findings and declarations.

A violation of the Public Utilities Act or an order of the commission is a crime under existing law.

Because a violation of the bill's provisions would be a violation of the act, the bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) An adequate and reliable supply of electricity is essential to
- 4 the health, safety, and welfare of all California consumers.
- 5 (b) Safe, reliable, and affordable electric service is of utmost
- 6 importance to the consumers of this state and its economy.
- 7 (c) Electrical corporations have an obligation to provide their
- 8 customers with reliable electric service at just and reasonable rates.
- 9 (d) In order to provide safe, reliable, and affordable electric
- 10 service to consumers, electrical corporations must provide needed
- 11 resources, including cost-effective energy efficiency and other
- 12 demand reduction measures, utility-owned and procured
- 13 generation, new and repowered generation, cogeneration,
- 14 renewable generation, transmission, distribution, and an



1 adequately sized, well-trained workforce, in a manner that
2 produces the best value for ratepayers at just and reasonable rates.

3 (e) In order to ensure that investments in resources are made in
4 a manner that produces the best value for ratepayers, electrical
5 corporations should prepare a long-term integrated resource plan
6 for commission review and approval, that achieves a diversified
7 portfolio of efficient, cost-effective, environmentally responsible
8 supply and demand resources.

9 (f) In order to ensure that the *long-term* integrated resource
10 plan achieves a diversified portfolio of efficient, cost-effective,
11 environmentally responsible, supply and demand resources,
12 resource adequacy requirements shall be met first through
13 cost-effective energy efficiency and other demand reduction
14 measures.

15 (g) In order to ensure that a long-term integrated resource plan
16 will result in investments in resources sufficient to provide reliable
17 electric service to customers of an electrical corporation without
18 stranding costs or shifting costs, a stable and predictable customer
19 base is necessary and essential.

20 (h) In order to attract sufficient capital to make investments in
21 needed resources, there must be assurance that reasonable costs
22 and investments, including a return of and on direct investments,
23 and payments made to third parties under contract with an
24 electrical corporation for non-utility-owned generation, are
25 recovered in rates.

26 (i) California consumers will not receive reliable and
27 affordable electric service, nor will consumers avoid repetition of
28 past problems with excessive wholesale electricity prices, rolling
29 blackouts, and long-term supply contracts that threaten consumers
30 with billions of dollars in above-market electricity costs, unless a
31 durable framework is enacted to provide regulatory certainty and
32 market stability in support of investment in needed efficient,
33 cost-effective, environmentally responsible resources at just and
34 reasonable rates.

35 (j) Protecting the interests of consumers by ensuring that
36 investments are prudent and cost effective, should be the highest
37 priority of California regulatory policy and action.

38 ~~(k) It is the intent of the Legislature in enacting this act to~~
39 ~~pursue the goal of providing~~



1 (k) *The Public Utilities Commission has an obligation to*
2 *provide an open regulatory forum where all persons affected by*
3 *public utility service and rates, can observe and participate in the*
4 *decisionmaking process.*

5 SEC. 2. *Section 330 of the Public Utilities Code is repealed.*

6 330. ~~In order to provide guidance in carrying out this chapter,~~
7 ~~the Legislature finds and declares all of the following:~~

8 (a) ~~It is the intent of the Legislature that a cumulative rate~~
9 ~~reduction of at least 20 percent be achieved not later than April 1,~~
10 ~~2002, for residential and small commercial customers, from the~~
11 ~~rates in effect on June 10, 1996. In determining that the April 1,~~
12 ~~2002, rate reduction has been met, the commission shall exclude~~
13 ~~the costs of the competitively procured electricity and the costs~~
14 ~~associated with the rate reduction bonds, as defined in Section 840.~~

15 (b) ~~The people, businesses, and institutions of California spend~~
16 ~~nearly twenty-three billion dollars (\$23,000,000,000) annually on~~
17 ~~electricity, so that reductions in the price of electricity would~~
18 ~~significantly benefit the economy of the state and its residents.~~

19 (c) ~~The Public Utilities Commission has opened rulemaking~~
20 ~~and investigation proceedings with regard to restructuring~~
21 ~~California's electric power industry and reforming utility~~
22 ~~regulation.~~

23 (d) ~~The commission has found, after an extensive public~~
24 ~~review process, that the interests of ratepayers and the state as a~~
25 ~~whole will be best served by moving from the regulatory~~
26 ~~framework existing on January 1, 1997, in which retail electricity~~
27 ~~service is provided principally by electrical corporations subject~~
28 ~~to an obligation to provide ultimate consumers in exclusive service~~
29 ~~territories with reliable electric service at regulated rates, to a~~
30 ~~framework under which competition would be allowed in the~~
31 ~~supply of electric power and customers would be allowed to have~~
32 ~~the right to choose their supplier of electric power.~~

33 (e) ~~Competition in the electric generation market will~~
34 ~~encourage innovation, efficiency, and better service from all~~
35 ~~market participants, and will permit the reduction of costly~~
36 ~~regulatory oversight.~~

37 (f) ~~The delivery of electricity over transmission and~~
38 ~~distribution systems is currently regulated, and will continue to be~~
39 ~~regulated to ensure system safety, reliability, environmental~~
40 ~~protection, and fair access for all market participants.~~



1 ~~(g) Reliable electric service is of utmost importance to the~~
2 ~~safety, health, and welfare of the state's citizenry and economy. It~~
3 ~~is the intent of the Legislature that electric industry restructuring~~
4 ~~should enhance the reliability of the interconnected regional~~
5 ~~transmission systems, and provide strong coordination and~~
6 ~~enforceable protocols for all users of the power grid.~~

7 ~~(h) It is important that sufficient supplies of electric generation~~
8 ~~will be available to maintain the reliable service to the citizens and~~
9 ~~businesses of the state.~~

10 ~~(i) Reliable electric service depends on conscientious~~
11 ~~inspection and maintenance of transmission and distribution~~
12 ~~systems. To continue and enhance the reliability of the delivery of~~
13 ~~electricity, the Independent System Operator and the commission,~~
14 ~~respectively, should set inspection, maintenance, repair, and~~
15 ~~replacement standards.~~

16 ~~(j) It is the intent of the Legislature that California enter into a~~
17 ~~compact with western region states. That compact should require~~
18 ~~the publicly and investor-owned utilities located in those states,~~
19 ~~that sell energy to California retail customers, to adhere to~~
20 ~~enforceable standards and protocols to protect the reliability of the~~
21 ~~interconnected regional transmission and distribution systems.~~

22 ~~(k) In order to achieve meaningful wholesale and retail~~
23 ~~competition in the electric generation market, it is essential to do~~
24 ~~all of the following:~~

25 ~~(1) Separate monopoly utility transmission functions from~~
26 ~~competitive generation functions, through development of~~
27 ~~independent, third-party control of transmission access and~~
28 ~~pricing.~~

29 ~~(2) Permit all customers to choose from among competing~~
30 ~~suppliers of electric power.~~

31 ~~(3) Provide customers and suppliers with open,~~
32 ~~nondiscriminatory, and comparable access to transmission and~~
33 ~~distribution services.~~

34 ~~(l) The commission has properly concluded that:~~

35 ~~(1) This competition will best be introduced by the creation of~~
36 ~~an Independent System Operator and an independent Power~~
37 ~~Exchange.~~

38 ~~(2) Generation of electricity should be open to competition.~~

39 ~~(3) There is a need to ensure that no participant in these new~~
40 ~~market institutions has the ability to exercise significant market~~



1 ~~power so that operation of the new market institutions would be~~
2 ~~distorted.~~

3 ~~(4) These new market institutions should commence~~
4 ~~simultaneously with the phase in of customer choice, and the~~
5 ~~public will be best served if these institutions and the~~
6 ~~nonbypassable transition cost recovery mechanism referred to in~~
7 ~~subdivisions (s) to (w), inclusive, are in place simultaneously and~~
8 ~~no later than January 1, 1998.~~

9 ~~(m) It is the intention of the Legislature that California's~~
10 ~~publicly owned electric utilities and investor-owned electric~~
11 ~~utilities should commit control of their transmission facilities to~~
12 ~~the Independent System Operator. These utilities should jointly~~
13 ~~advocate to the Federal Energy Regulatory Commission a pricing~~
14 ~~methodology for the Independent System Operator that results in~~
15 ~~an equitable return on capital investment in transmission facilities~~
16 ~~for all Independent System Operator participants.~~

17 ~~(n) Opportunities to acquire electric power in the competitive~~
18 ~~market must be available to California consumers as soon as~~
19 ~~practicable, but no later than January 1, 1998, so that all customers~~
20 ~~can share in the benefits of competition.~~

21 ~~(o) Under the existing regulatory framework, California's~~
22 ~~electrical corporations were granted franchise rights to provide~~
23 ~~electricity to consumers in their service territories.~~

24 ~~(p) Consistent with federal and state policies, California~~
25 ~~electrical corporations invested in power plants and entered into~~
26 ~~contractual obligations in order to provide reliable electrical~~
27 ~~service on a nondiscriminatory basis to all consumers within their~~
28 ~~service territories who requested service.~~

29 ~~(q) The cost of these investments and contractual obligations~~
30 ~~are currently being recovered in electricity rates charged by~~
31 ~~electrical corporations to their consumers.~~

32 ~~(r) Transmission and distribution of electric power remain~~
33 ~~essential services imbued with the public interest that are provided~~
34 ~~over facilities owned and maintained by the state's electrical~~
35 ~~corporations.~~

36 ~~(s) It is proper to allow electrical corporations an opportunity~~
37 ~~to continue to recover, over a reasonable transition period, those~~
38 ~~costs and categories of costs for generation-related assets and~~
39 ~~obligations, including costs associated with any subsequent~~
40 ~~renegotiation or buyout of existing generation-related contracts;~~



1 that the commission, prior to December 20, 1995, had authorized
2 for collection in rates and that may not be recoverable in market
3 prices in a competitive generation market, and appropriate
4 additions incurred after December 20, 1995, for capital additions
5 to generating facilities existing as of December 20, 1995, that the
6 commission determines are reasonable and should be recovered,
7 provided that the costs are necessary to maintain those facilities
8 through December 31, 2001. In determining the costs to be
9 recovered, it is appropriate to net the negative value of above
10 market assets against the positive value of below market assets.

11 (t) The transition to a competitive generation market should be
12 orderly, protect electric system reliability, provide the investors in
13 these electrical corporations with a fair opportunity to fully
14 recover the costs associated with commission approved
15 generation-related assets and obligations, and be completed as
16 expeditiously as possible.

17 (u) The transition to expanded customer choice, competitive
18 markets, and performance based ratemaking as described in
19 Decision 95-12-063, as modified by Decision 96-01-009, of the
20 Public Utilities Commission, can produce hardships for
21 employees who have dedicated their working lives to utility
22 employment. It is preferable that any necessary reductions in the
23 utility workforce directly caused by electrical restructuring, be
24 accomplished through offers of voluntary severance, retraining,
25 early retirement, outplacement, and related benefits. Whether
26 workforce reductions are voluntary or involuntary, reasonable
27 costs associated with these sorts of benefits should be included in
28 the competition transition charge.

29 (v) Charges associated with the transition should be collected
30 over a specific period of time on a nonbypassable basis and in a
31 manner that does not result in an increase in rates to customers of
32 electrical corporations. In order to insulate the policy of
33 nonbypassability against incursions, if exemptions from the
34 competition transition charge are granted, a firewall shall be
35 created that segregates recovery of the cost of exemptions as
36 follows:

37 (1) The cost of the competition transition charge exemptions
38 granted to members of the combined class of residential and small
39 commercial customers shall be recovered only from those
40 customers.



1 ~~(2) The cost of the competition transition charge exemptions~~
2 ~~granted to members of the combined class of customers other than~~
3 ~~residential and small commercial customers shall be recovered~~
4 ~~only from those customers. The commission shall retain existing~~
5 ~~cost allocation authority provided that the firewall and rate freeze~~
6 ~~principles are not violated.~~

7 ~~(w) It is the intent of the Legislature to require and enable~~
8 ~~electrical corporations to monetize a portion of the competition~~
9 ~~transition charge for residential and small commercial consumers~~
10 ~~so that these customers will receive rate reductions of no less than~~
11 ~~10 percent for 1998 continuing through 2002. Electrical~~
12 ~~corporations shall, by June 1, 1997, or earlier, secure the means to~~
13 ~~finance the competition transition charge by applying~~
14 ~~concurrently for financing orders from the Public Utilities~~
15 ~~Commission and for rate reduction bonds from the California~~
16 ~~Infrastructure and Economic Development Bank.~~

17 ~~(x) California's public utility electrical corporations provide~~
18 ~~substantial benefits to all Californians, including employment and~~
19 ~~support of the state's economy. Restructuring the electric services~~
20 ~~industry pursuant to the act that added this chapter will continue~~
21 ~~these benefits, and will also offer meaningful and immediate rate~~
22 ~~reductions for residential and small commercial customers, and~~
23 ~~facilitate competition in the supply of electric power.~~

24 *SEC. 3.* Section 365 of the Public Utilities Code is amended
25 to read:

26 365. The actions of the commission pursuant to this chapter
27 shall be consistent with the findings and declarations contained in
28 Section 330. In addition, the commission shall facilitate the efforts
29 of the state's electrical corporations to develop and obtain
30 authorization from the Federal Energy Regulatory Commission
31 for the creation and operation of an Independent System Operator
32 ~~and an independent Power Exchange~~, for the determination of
33 which transmission and distribution facilities are subject to the
34 exclusive jurisdiction of the commission, and for approval, to the
35 extent necessary, of the cost recovery mechanism established as
36 provided in Sections 367 to 376, inclusive. The commission shall
37 also participate fully in all proceedings before the Federal Energy
38 Regulatory Commission in connection with the Independent
39 System Operator and the independent Power Exchange, and shall
40 encourage the Federal Energy Regulatory Commission to adopt



1 protocols and procedures that strengthen the reliability of the
2 interconnected transmission grid, encourage all publicly owned
3 utilities in California to become full participants, and maximize
4 enforceability of such protocols and procedures by all market
5 participants.

6 ~~SEC. 3.—~~

7 *SEC. 4.* Section 366 of the Public Utilities Code is repealed.

8 ~~SEC. 4.—Article 17~~

9 *SEC. 5.* Chapter 2.4 (commencing with Section 400) is added
10 to ~~Chapter 2.3~~ of Part 1 of Division 1 of the Public Utilities Code,
11 to read:

12
13 ~~Article 17.—Reliable Electric Service Act of 2004~~

14
15
16 *CHAPTER 2.4. RELIABLE ELECTRIC SERVICE ACT OF 2004*

17
18 400. This ~~article~~ *chapter* shall be known, and may be cited, as
19 the Reliable Electric Service Act of 2004.

20 400.1. (a) An electrical corporation has an obligation to plan
21 for and provide its customers with reliable electric service at just
22 and reasonable rates, pursuant to Section 451.

23 (b) For purposes of this ~~article~~ *chapter*, “electric service”
24 includes providing adequate and efficient resources, including
25 cost-effective energy efficiency and other demand reduction
26 resources, utility-owned and procured generation resources, such
27 as new and repowered generation resources, cogeneration, *and*
28 renewable generation resources, transmission and distribution
29 resources, metering, billing, and employing an adequately sized,
30 well-trained utility workforce.

31 (c) Notwithstanding subdivisions (a) and (b), an electrical
32 corporation has no obligation to procure electricity or meet
33 resource adequacy requirements for any customer that elects to
34 enter into a direct transaction. No costs incurred by the electrical
35 corporation to implement direct transactions on behalf of direct
36 access customers, shall be recovered from the utility’s bundled
37 customers.

38 400.5. (a) To ensure that adequate investments are made in
39 resources necessary to provide customers with reliable electric
40 service, the commission shall authorize an electrical corporation



1 to provide efficient, cost-effective resources, including
2 cost-effective energy efficiency and demand reduction resources,
3 utility-owned and procured generation resources, such as new and
4 repowered generation resources, cogeneration, and renewable
5 generation resources, consistent with the electrical corporation's
6 procurement plan adopted pursuant to Section ~~454.4~~ 454.5.

7 (b) The commission shall, after public hearing, approve and
8 thereafter maintain just and reasonable rates sufficient to ensure
9 that the electrical corporation fully recovers the initial capital
10 investment ~~found reasonable by the commission~~ in the resources
11 necessary to provide customers with reliable electric service,
12 ~~including a reasonable opportunity to fully recover a reasonable~~
13 ~~return on investment over the life of the resource, in addition to~~
14 ~~costs reasonably incurred to operate and maintain those resources,~~
15 ~~on a timely basis.~~

16 ~~(c) The cost recovery assurance for investments in resources~~
17 ~~applies to both of the following:~~

18 ~~(1) Direct investments made by an electrical corporation.~~

19 ~~(2) The which is specified at the time of the application for a~~
20 ~~certificate of public convenience and necessity, if the initial capital~~
21 ~~investment is found reasonable by the commission.~~

22 (c) *In determining the electrical corporation's full costs of*
23 *contracting for generation resources with another entity in*
24 *accordance with Section 454.5, including the reasonable costs, as*
25 *determined by the commission, for any collateral requirements*
26 *and debt equivalence. or Article 16 (commencing with Section*
27 *399.11), the commission shall take into account any collateral*
28 *requirements and debt equivalence associated with the contract,*
29 *in a manner determined by the commission to provide the best*
30 *value to ratepayers.*

31 (d) Nothing in this ~~article~~ *chapter* alters the requirements of
32 Section 454.5, 455.5, 463, or 1005.5.

33 (e) It is the intent of the Legislature in enacting this section to
34 reaffirm California's traditional regulatory compact, under which
35 an electrical corporation has the obligation to provide reliable
36 electric service at just and reasonable rates, and the commission
37 ensures that the electrical corporation is afforded the means to
38 carry out this obligation, specifically including a reasonable
39 opportunity to fully recover from all customers, in a manner
40 determined by the commission pursuant to this code, a return of,



1 and a reasonable return on, reasonable investments in
2 utility-owned generation, transmission, and distribution resources
3 that are necessary to meet the utility's obligation, the utility's
4 reasonable costs to operate and maintain those resources, and the
5 utility's reasonable costs for nonutility generation resources
6 procured in accordance with Section 454.5 and Article 16
7 (*commencing with Section 399.11*).

8 400.10. (a) To ensure that adequate investments necessary to
9 meet the electrical corporation's obligation to provide reliable
10 electric service are made, every electrical corporation shall, *at*
11 *least every three years*, prepare a long-term integrated resource
12 plan in accordance with Sections 454.5 and 701.1, and Article 16
13 (~~commencing with Section 399.11~~), ~~to achieve a diversified~~
14 ~~portfolio of efficient cost-effective supply and demand resources~~
15 ~~to serve the utility's customers. The plan shall include demand and~~
16 ~~supply forecasts for 5-, 10-, and 15-year periods, and shall ensure~~
17 ~~that adequate resources are identified to reliably serve the utility's~~
18 ~~customers. The demand forecasts shall reflect energy efficiency~~
19 ~~programs approved by the commission. The commission shall,~~
20 ~~after public hearing, review and approve a long-term resource plan~~
21 ~~for every electrical corporation consistent with Sections 454.5 and~~
22 ~~701.1, and Article 16 (commencing with Section 399.11);~~
23 ~~including those revisions to the utility filed plan that the~~
24 ~~commission determines are necessary.~~

25 ~~(b) The plan shall provide for investments in all practicable and~~
26 ~~cost-effective energy efficiency and load management resources,~~
27 ~~that offer equivalent or better system reliability, equivalent or~~
28 ~~better environmental improvements, and equivalent or lower costs~~
29 ~~to ratepayers than supply alternatives.~~

30 ~~(c) The plan shall provide for investments in necessary~~
31 ~~generation resources, including extensions, renewal, or~~
32 ~~renegotiations of contracts for existing generation resources, new~~
33 ~~or repowered generation and cogeneration projects.~~

34 ~~(d) (1) The plan may provide for investments in distributed~~
35 ~~generation that would improve system reliability, thereby~~
36 ~~deferring or eliminating investments in distribution facilities that~~
37 ~~would otherwise be needed to improve system reliability, by either~~
38 ~~direct investment by the electrical corporation or under contract~~
39 ~~with a third party, provided the commission finds that the~~



1 ~~investment in distributed generation would accomplish each of the~~
2 ~~following:~~

3 ~~(A) Result in overall cost savings for ratepayers due to deferral~~
4 ~~or elimination of electric distribution projects.~~

5 ~~(B) Provide the required reliability and operational~~
6 ~~characteristics to support adequate service reliability to customers~~
7 ~~in the affected area.~~

8 ~~(2) In cases where the distributed generation is provided under~~
9 ~~contract with a third party to reduce distribution system loads, the~~
10 ~~third party must maintain physical assurance that the contracted~~
11 ~~load reduction will be available during all required time periods.~~

12 ~~(e) The plan shall provide that an electrical corporation shall~~
13 ~~meet resource adequacy requirements established by the~~
14 ~~commission pursuant to Section 400.22, for the electric load~~
15 ~~served by the electrical corporation. For purposes of this article,~~
16 ~~“electric load served by the electrical corporation” does not~~
17 ~~include the electrical load of customers who elect to enter into a~~
18 ~~direct transaction.~~

19 ~~(b) The long-term integrated resource plan shall accomplish~~
20 ~~all of the following:~~

21 ~~(1) Ensure that adequate resources are identified to serve the~~
22 ~~utility’s customers reliably.~~

23 ~~(2) Provide for investments in resources proposed pursuant to~~
24 ~~Section 454.5 and Article 16 (commencing with Section 399.11).~~

25 ~~(3) Be consistent with Section 701.1 and Chapter 4~~
26 ~~(commencing with Section 25300) of Division 15 of the Public~~
27 ~~Resources Code.~~

28 ~~(4) Achieve a diversified portfolio of efficient, cost-effective,~~
29 ~~and environmentally responsible supply and demand resources to~~
30 ~~serve the utility’s customers.~~

31 ~~(5) Provide for investments in all practicable and cost-effective~~
32 ~~energy efficiency and load management resources.~~

33 ~~(6) Provide for investments in, or procurement of, necessary~~
34 ~~conventional generation resources, including extensions,~~
35 ~~renewals, or renegotiations of contracts for existing generation~~
36 ~~resources, new or repowered generation, and cogeneration~~
37 ~~projects.~~

38 ~~(7) Provide that an electrical corporation meets resource~~
39 ~~adequacy requirements established by the commission pursuant to~~
40 ~~Section 400.22, for the electric load served by the electrical~~



1 corporation. For purposes of this chapter, “electric load served by
2 the electrical corporation” does not include the electrical load of
3 customers who elect to enter into a direct transaction.

4 (8) Include demand and supply forecasts for 5- and 10-year
5 periods. The demand forecasts shall reflect all energy efficiency
6 and load management programs approved by the commission.

7 (c) The long-term integrated resource plan may provide for
8 investments in distributed generation that would improve
9 electrical system reliability, thereby deferring or eliminating
10 investments in distribution facilities that would otherwise be
11 needed to improve system reliability, by either direct investment by
12 the electrical corporation or under contract with a retail customer
13 or a third party, if the commission finds that the investment in
14 distributed generation would accomplish each of the following:

15 (1) Result in overall cost savings for ratepayers due to deferral
16 or elimination of electric distribution projects.

17 (2) Provide the required reliability and operational
18 characteristics to support adequate service reliability to
19 customers in the affected area.

20 (3) If the distributed generation is provided under contract with
21 a retail customer or a third party to reduce distribution system
22 loads, the retail customer or third party shall maintain physical
23 assurance that the contracted load reduction will be available
24 during all required time periods.

25 400.11. The commission shall, after public hearing, review
26 and approve a long-term integrated resource plan for every
27 electrical corporation, including those revisions to the plan that
28 the commission determines are necessary to meet the requirements
29 of Section 400.10 and achieve best value for utility customers.

30 400.15. In accordance with an electrical corporation’s
31 ~~procurement plan approved pursuant to Section 454.5, and~~
32 ~~consistent with Section~~ long-term integrated resource plan
33 approved pursuant to Section 400.11, and consistent with Sections
34 454.5 and 701.1 and Article 16 (commencing with Section
35 399.11), to meet resource adequacy requirements, each electrical
36 corporation shall manage a diversified, efficient, cost-effective,
37 environmentally responsible portfolio of nonutility-owned
38 generation under contract with the utility, and utility-owned
39 generation, combining the potential benefits of a competitive
40 wholesale market, including operating efficiencies and lower



1 prices, with the stability of cost-of-service generation resources,
2 to achieve best value for ratepayers at just and reasonable rates.

3 400.18. The commission shall, on or before July 1, 2005,
4 prepare and submit to the Governor and the Legislature, a
5 comprehensive plan to streamline the transmission siting process.
6 The plan shall, at a minimum, include recommendations to
7 eliminate regulatory overlap and duplication, and
8 recommendations to reduce the time needed to process a request
9 for transmission improvements. The commission shall consult
10 with the State Energy Resources Conservation and Development
11 Commission, the Independent System Operator, electrical
12 corporations, and interested parties in the development and
13 preparation of the plan.

14 400.21. (a) On or before December 31, 2005, the
15 commission may adopt rules and regulations to implement a core
16 and noncore model for retail electric service, whereby core
17 customers shall receive reliable electric service from an electrical
18 corporation on a regulated basis and noncore customers may
19 choose to assume the full price risk of purchasing electricity from
20 the retail electric market. The commission may implement a core
21 and noncore model on or after January 1, 2006, provided the
22 commission has implemented rules and regulations that achieve all
23 of the following:

24 (1) Permit specified electrical corporation customers with a
25 single anchor meter with a maximum peak demand of at least ____
26 kilowatts to choose to become noncore customers and to purchase
27 electricity directly from nonutility electric service providers.
28 Aggregation of additional meters on contiguous property under
29 the same ownership as the anchor meter may be permitted.

30 (2) Provide that noncore customers forgo both the benefits and
31 future incurred costs of receiving bundled electricity service from
32 the electrical corporations.

33 (3) Provide that the remaining core customers are served by the
34 electrical corporation's electricity resource portfolio.

35 (4) Require each electrical corporation to manage its electricity
36 resource portfolio for the benefit of its core customers.

37 (5) Ensure electrical corporations and core customers fully
38 compensatory and timely recovery of costs, including investments
39 in long-term resource additions to the system, originally incurred
40 to serve departing customers.



1 (6) Provide for the full recovery of existing direct access
2 customers' energy cost obligations *from existing direct access*
3 *customers*, on a schedule comparable to the recovery of
4 comparable costs from core customers, *either through refinancing*
5 *the cost obligation, or otherwise relieving core customers of the*
6 *cost obligation.*

7 (7) Provide for an election process whereby a customer with a
8 single anchor meter with a maximum peak demand of at least ____
9 kilowatts ~~may choose~~ *shall make a permanent election* to become
10 a noncore customer. The election process shall be phased in over
11 no fewer than five years, and shall include maximum annual
12 megawatt limits on the amount of load available to noncore
13 customers for direct transactions (hereafter, yearly transition cap).
14 ~~The yearly transition cap shall be based on annual load growth and~~
15 ~~the Department of Water Resources contract expirations.~~ The
16 commission may establish these annual megawatt limits, *or yearly*
17 *transition caps*, in equal annual amounts.

18 (8) Require that, at the end of the transition period, each
19 customer with a single anchor meter with a maximum peak
20 demand of at least ____ kilowatts, who has not yet elected to
21 purchase electricity directly from nonutility electric service
22 provider, must make a permanent election to either remain with the
23 electrical corporation or to purchase electricity from a nonutility
24 electric service provider.

25 (9) Require nonutility electric service providers to comply with
26 the resource adequacy requirements established by the
27 commission pursuant to this ~~article~~ *chapter*, to ensure that there is
28 no adverse effect on the reliability, cost, or availability of
29 electricity for core customers.

30 (10) Require electric service providers to meet resource
31 adequacy requirements by first acquiring all available
32 cost-effective energy efficiency and demand reduction resources,
33 and comply with the requirements established pursuant to Article
34 16 (commencing with Section 399.11). *The commission shall*
35 *establish an effective mechanism to independently measure and*
36 *verify acquisition of cost-effective energy efficiency and demand*
37 *reduction resources by electric service providers, consistent with*
38 *commission protocols for electrical corporations as existing on*
39 *January 1, 2005.*



1 (11) Provide for a competitively bid, provider-of-last-resort
2 default electric service, for noncore customers.

3 (12) Restrict the ability of a noncore customer to return to
4 electric service from the electrical corporation. In the event that the
5 retail market fails, and is no longer providing reliable electric
6 service to noncore customers, electrical corporation service to a
7 returning noncore customer shall be provided at a fully
8 compensatory rate, subject to standard contractual return
9 conditions that prevent any cost shifting.

10 (13) Demonstrate that a core and noncore model will support,
11 and not be detrimental to, system reliability and future investments
12 in electricity infrastructure and the objective of acquiring all
13 cost-effective energy efficiency and demand reduction resources.

14 (14) Provide that customers that are purchasing electricity
15 pursuant to a direct transaction as of January 1, 2005, including
16 customers that qualify as core customers, may choose to continue
17 to purchase electricity pursuant to a direct transaction or to return
18 to electric service provided by the electrical corporation. Those
19 customers who choose to continue to purchase electricity under a
20 direct transaction shall be subject to the rules established for a
21 noncore customer pursuant to this section. The commission may
22 authorize customers that are purchasing electricity pursuant to a
23 direct transaction as of January 1, 2005, and who choose to
24 continue to purchase electricity under a direct transaction pursuant
25 to this ~~article~~ *chapter*, to aggregate additional meters located on
26 contiguous property under the customer's same ownership.

27 (15) Provide that the adoption of rules and regulations required
28 by this section, and the adoption of resource adequacy
29 requirements pursuant to this ~~article~~ *chapter*, are a prerequisite for
30 the implementation of a core and noncore market authorized
31 pursuant to this ~~article~~ *chapter*.

32 (b) The commission shall annually prepare and submit to the
33 Legislature and the Governor a report detailing the status of the
34 noncore retail market established pursuant to this section,
35 including, but not limited to, the following:

36 (1) The number, type, size, and location of noncore customers,
37 including the total load electing to purchase electricity through
38 direct transactions.

39 (2) The amount of new generation capacity built to serve the
40 noncore retail market.



1 (3) The prices paid by noncore customers for electricity.

2 (c) The report shall be reviewed by an independent auditor each
3 year, who shall report to the commission, the Legislature, and the
4 Governor on any impacts on the price, availability, or reliability of
5 electricity for core customers resulting from the implementation
6 of a noncore retail market. The commission shall consider the
7 report of the independent auditor, and shall take all actions
8 necessary to ensure that core customers continue to receive
9 reliable electric service at just and reasonable rates, including, but
10 not limited to, deferring further phase in of the noncore retail
11 market until new generating capacity is built to serve the retail
12 market.

13 (d) In designating the earliest possible date for implementation
14 of a community choice aggregation program, the commission
15 shall ensure that there will be no cost-shifting or stranding of
16 investments made pursuant to a long-term integrated resource plan
17 of the electrical corporation that has been approved by the
18 commission pursuant to Section ~~454.5~~ 400.11.

19 400.22. (a) All electrical load serving entities, including
20 nonutility electric service providers and community choice
21 aggregators, shall be subject to the same requirements for resource
22 adequacy, resource diversity, and the renewable portfolio
23 standard, that are applicable to electrical corporations pursuant to
24 this section, as required by other law, or as required by order or
25 decision of the commission.

26 (b) The commission, in consultation with the Independent
27 System Operator, shall establish resource adequacy requirements
28 to ensure adequate physical generating capacity dedicated to serve
29 all load requirements is available to meet peak demand and
30 planning and operating reserves, at a location and at a time as may
31 be necessary to ensure local area reliability and system reliability,
32 on a least-cost-to-ratepayers basis.

33 (c) The commission shall implement and enforce these
34 resource adequacy requirements in a nondiscriminatory manner
35 on all load serving entities.

36 (d) The cost of meeting resource adequacy requirements,
37 including the costs associated with system reliability and local area
38 reliability, shall be equitably borne by and recoverable from all
39 customers on a pro rata, fully compensatory basis pursuant to rates
40 that are just and reasonable, as determined by the commission.



1 (e) Resource adequacy requirements established by the
2 commission shall provide for all of the following:

3 (1) Grid reliability.

4 (2) Adequate physical generating capacity dedicated to serve
5 all load requirements, including planning and operating reserves,
6 where and when it is needed.

7 (3) Investment in new generating capacity.

8 (4) Market power mitigation.

9 (5) Deliverability.

10 (f) Load serving entities may procure physical generating
11 capacity through a market-based mechanism, provided that the
12 mechanism achieves all of the following:

13 (1) Adequate *physical* generating capacity dedicated to serve
14 all load requirements when and where the electricity is needed,
15 including planning and operating reserves.

16 (2) Adequate investment in new generating capacity.

17 (3) Electricity that is purchased through the market is
18 deliverable to the load for which it is purchased.

19 (4) Reliability of the electrical grid is not impaired.

20 (5) A prospective market monitoring process is in place that is
21 sufficient to ensure a well-functioning wholesale electricity
22 market.

23 (g) The commission shall adopt rules and regulations necessary
24 to enforce resource adequacy requirements established pursuant to
25 this section. Pursuant to its authority to revoke or suspend
26 registration pursuant to Section 394.25, the commission shall
27 suspend the registration for a specified period, or revoke the
28 registration, of an electric service provider that fails to comply
29 with the rules and regulations adopted by the commission to
30 enforce resource adequacy requirements.

31 (h) The commission's implementation of resource adequacy
32 requirements in accordance with this section shall be a prerequisite
33 for the implementation of a core and noncore market authorized
34 pursuant to this ~~article~~ chapter.

35 (i) For purposes of this ~~article~~ chapter, "load serving entity"
36 does not include a local publicly owned electric utility as defined
37 in Section 9604, the State Water Resources Development System
38 commonly known as the State Water Project, or customer
39 generation. For purposes of this subdivision, "customer
40 generation" means cogeneration, renewable technologies, or any



1 other type of generation that is dedicated wholly or in part to serve
 2 a specific customer’s load and that relies on nonutility or dedicated
 3 utility distribution wires, rather than the utility grid, to serve the
 4 customer, the customer’s affiliates, or the customer’s tenants, or
 5 not more than two other persons or corporations. Those two
 6 persons or corporations must be located onsite or adjacent to the
 7 real property on which the generator is located. “Customer
 8 generation” includes distributed energy resources as defined in
 9 Section 353.1 and ultraclean and low-emission distributed
 10 generation as defined in Section 353.2.

11 400.30. To ensure that the utility’s obligation to provide
 12 customers with reliable electric service at just and reasonable rates
 13 is met by an electrical corporation, the commission shall adopt
 14 rules and regulations consistent with the policies and provisions of
 15 this ~~article~~ chapter.

16 400.40. Nothing in this chapter shall alter or affect any
 17 outcome of a competitive procurement process conducted by an
 18 electrical corporation pursuant to any other law, including Section
 19 454.5, prior to January 1, 2005.

20 ~~SEC. 5.—~~

21 400.50. *Nothing in this chapter shall alter or affect the*
 22 *implementation of the California Renewables Portfolio Standard*
 23 *Program pursuant to Article 16 (commencing with Section*
 24 *399.11).*

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

