

DOCKETED	
Docket Number:	24-OIR-01
Project Title:	Rulemaking on AB 1373 POU Capacity Payment to Implementation
TN #:	268859
Document Title:	24-OIR-01 - NOPA
Description:	N/A
Filer:	TJ Singh
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	2/27/2026 1:04:12 PM
Docketed Date:	2/27/2026

CALIFORNIA ENERGY COMMISSION

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**NOTICE OF PROPOSED ACTION**

AB 1373 POU Capacity Payment Implementation

Title 20, California Code of Regulations

Adoption of Sections 1395 and 1396 in Title 20, Division 2, Chapter 3, Article 6

Docket No. 24-OIR-01

Notice Published on February 27, 2026

INTRODUCTION

The California Energy Commission (CEC) proposes to implement Assembly Bill (AB) 1373 (Garcia, Chapter 367, Statutes of 2023) by adopting Sections 1395 and 1396 in Title 20 in the California Code of Regulations (CCR), after considering all comments, objections, and recommendations regarding the proposed regulations.

AB 1373 requires the Department of Water Resources (DWR) to determine whether local publicly owned electric utilities (POUs) in the California Independent System Operator (ISO) Balancing Authority Area (BAA) serving end-use customers have procured resources through the Electricity Supply Strategic Reliability Reserve Program (ESSRRP) in any given month to meet an identified reliability need. AB 1373 further requires the CEC to assess a capacity payment annually on each POU in the California ISO BAA that, during the same month, fails to meet its minimum planning reserve margin (PRM) and deposit those payments into the DWR's Electricity Supply Strategic Reliability Reserve Fund (Fund). These regulations will define the process for assessing the new capacity payment and depositing of monies into the Fund.

PUBLIC COMMENT PERIOD

Interested persons or their authorized representatives may submit written comments during the written public comment period for the proposed regulation that will be held from February 27, 2026, through 5:00 p.m. on April 14, 2026. Any interested person may submit written comments to the CEC for consideration on or prior to 5:00 p.m. on April 14, 2026. The CEC appreciates receiving written comments at the earliest possible date. Comments submitted outside this comment period are considered untimely.

Written comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page on the [CEC's AB 1373 Capacity Payment to Implementation docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01>, which links

to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20, California Code of Regulations, Section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include the docket number 24-OIR-01 in the subject line and email your comment to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit
Docket No. 24-OIR-01
715 P Street, MS-4
Sacramento, CA 95814

To ensure you receive notice of any changes to the proposed regulations in this proceeding, please follow the instructions provided at the end of this notice to join the proceeding contact list or provide a valid email or mailing address with your comments.

A public hearing has not been scheduled. However, any interested person or their authorized representative may request, no later than 15 days prior to the close of the written public comment period specified above, a public hearing pursuant to Government Code Section 11346.8.

STATUTORY AUTHORITY AND REFERENCE

Water Code Section 80714 authorizes the CEC to adopt regulations as necessary to implement, interpret, and make specific Water Code Section 80714 and 80720.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Summary of existing laws and regulations:

Assembly Bill 205 (Committee on Budget, Chapter 61, Statutes of 2022) established the Strategic Reliability Reserve (SRR), a group of programs intended to support the state’s electric grid during extreme and emergency events that fall outside typical planning standards. The SRR provides state funding to secure conventional generation, efficiency

upgrades at existing natural gas plants, demand response,¹ distributed generation,² and long-duration energy storage.³ These resources may be called on by the state to provide incremental capacity additions or reduce load during an extreme event, when there could be insufficient energy resources to cover load.

DWR manages the ESSRRP, which is one of three programs comprising the SRR. The CEC administers two additional programs, the Distributed Electricity Backup Assets Program⁴ and the Demand Side Grid Support Program.⁵

DWR implements the ESSRRP via the Fund⁶ to provide additional generation capacity to support grid reliability and has procured temporary power generators and extended the availability of existing generation plants planned for retirement under this program. The combination of these ESSRRP resources provides more than 3,000 megawatts (MW) of generation capacity to support the grid in extreme events, such as heat waves and natural disasters.

Good utility practice includes planning for and contracting resources to meet electricity demand under a variety of conditions. This practice is typically referred to as “resource adequacy.” If load-serving entities or POU in the California ISO BAA do not meet their resource adequacy obligations, this could threaten grid reliability, particularly during extreme events, such as those caused by excessive heat in California or across the western United States, and wildfires that threaten transmission lines.

Among other things, AB 1373 established a new fee structure for POU in the California ISO BAA that fail to meet system resource adequacy requirements during a month in which ESSRRP resources are triggered to meet an identified reliability need.⁷

In addition, AB 1373 requires that the CEC, in consultation with the California Public Utilities Commission (CPUC), submit a report to the Legislature on or before January 31, 2024, that includes, among other things, an assessment as to whether each POU in

¹ Demand response is the provision of wholesale and retail electricity to customers with the ability to choose to respond to time-based prices and other incentives by reducing or shifting electricity use, particularly during peak demand periods, so that changes in customer demand become a viable option for addressing pricing, system operations and reliability, infrastructure planning, operation and deferral, and other issues. (See Yee Yang, Chie Hong and Kristen Widdifield. 2024. [Prerulemaking for Capacity Payments, Implementation of Assembly Bill 1373](#). California Energy Commission. Publication Number: CEC-200-2024-009.)

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=256585&DocumentContentId=92395>.)

² A distributed generation system involves small amounts of generation located on a utility’s distribution system for the purpose of meeting local (substation level) peak loads and/or displacing the need to build additional (or upgrade) local distribution lines. (*Id.* at p. 3, fn. 2.)

³ Long-duration energy storage is any system that is able to discharge energy at its rated power output for more than four hours. (*Id.* at p. 3, fn. 3.)

⁴ Pub. Resources Code, §§ 25791 and 25791.5.

⁵ Pub. Resources Code, § 25792.

⁶ See Water Code, § 80720.

⁷ Water Code, § 80714; Department of Water Resources, [“Statewide Water and Energy,”](#) <https://water.ca.gov/Programs/Statewide-Water-and-Energy>.

the California ISO BAA exceeded, met, or failed to meet its PRM in 2023.⁸ Upon submission of that report, and on or before January 30, 2027, the CEC must assess a capacity payment on any POU in the California ISO BAA that fails to meet its PRM in the same month in which DWR resources from the ESSRRP were used to meet an identified reliability need.⁹

AB 1373 further authorizes the CEC to adopt regulations to implement section 80714 of the Water Code, which sets forth the CEC's obligation to assess capacity payments on POUs in the California ISO BAA under the circumstances described above.¹⁰

As set forth in the legislation, three agencies, DWR, the CEC, and CPUC, have specific roles in implementing AB 1373:

- DWR will identify when resources have been called through the ESSRRP and whether those resources have been used in a given month to meet an identified reliability need. DWR will also provide information on resource costs.
- CEC and CPUC must determine a capacity payment calculation method based on the monthly cost of the resources procured using money from DWR's Fund relative to the capacity in which the load-serving entity was deficient in its system resource adequacy requirements.
- CEC must assess capacity payments for each POU in the California ISO BAA annually and deposit those payments into DWR's Fund.¹¹
- CPUC must assess capacity payments for all CPUC-jurisdictional load-serving entities and annually deposit those payments into DWR's Fund.¹²

Effect of the proposed regulation:

The proposed regulations would establish the process CEC staff will use to: determine whether a POU in the California ISO BAA owes a capacity payment, including the collection of relevant data; calculate the amount of any payment; and notify the POU of its payment obligation. In addition, the proposed regulations would establish the procedure for a POU in the California ISO BAA to contest CEC staff's determination, should it choose to do so, and describe the actions the CEC's Executive Director may take in response to staff's determination.

Difference from existing comparable federal regulation or statute:

These proposed regulations do not duplicate or conflict with any federal statute or regulations contained in the Code of Federal Regulations. There are no existing federal

⁸ Water Code, § 80714, subd. (d).

⁹ *Id.*, subd. (a).

¹⁰ *Id.*, subd. (c).

¹¹ The specific account is the Local Publicly Owned Electric Utility Capacity Payment Account.

¹² The specific account is the Load-Serving Entity Capacity Payment Account.

regulations that require capacity payments for POUs that fail to meet their minimum PRM.

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments:

The objective of the proposed rulemaking is to implement the CEC's statutory requirements under AB 1373. This includes determining a capacity payment calculation for POUs in the California ISO BAA that are deficient in meeting their system resource adequacy requirements. Further, the CEC must assess capacity payments and deposit them into the appropriate fund once collected.

Implementation of the proposed regulations will benefit consumers by bolstering resource adequacy to ensure sufficient capacity is procured to meet customer electricity demand and reserves, thereby contributing to a more reliable electric system. Further, the proposed regulations will provide a transparent process for assessing whether or not POUs in the California ISO BAA have met their resource adequacy obligations and PRM, and whether or not a capacity payment should be assessed to deficient POUs in the California ISO BAA when ESSRRP resources are called to meet a system reliability need.

As a result, POUs in the California ISO BAA will be held responsible for not meeting system resource adequacy requirements and financially liable, should the CEC determine there is a deficiency. This will further incentivize the POUs in the California ISO BAA to conduct careful planning efforts in order to ensure they meet their PRMs so as to avoid having to remit a payment. Further, consumers will experience the health, safety, and environmental benefits of a reliable grid by avoiding electricity blackouts.

Consistency or compatibility with existing state regulations:

The CEC has conducted a search for any other regulations in this area and has concluded there are no existing comparable state regulations. Therefore, the CEC has determined that the proposed regulations are neither inconsistent nor incompatible with any existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The CEC does not propose to incorporate by reference any documents.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed regulation is not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS

The CEC is not aware of any other statutory requirements that are relevant to the proposed regulations.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose a mandate on local agencies or school districts that require state reimbursement pursuant to Government Code Sections 17500 et seq.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Cost or savings to any state agency: The CEC will incur costs associated with enforcing the proposed regulations, providing guidance to POUs in the California ISO BAA, and administering program calculations and other requirements. These costs are estimated to be \$64,964 for each year in FY 26-27 and ongoing. Costs include 25% of one Electric Generation System Specialist I amounting to \$51,060 and 5% of one Program and Project Supervisor amounting to \$13,904. No savings to the CEC have been identified.
- Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq: The POUs in the California ISO BAA, which qualify as local governmental agencies, may incur some administrative costs, which are calculated below. The costs from this mandate would not be required to be reimbursed. The regulations would not impose a mandate on any school district that would require reimbursement.
- Other non-discretionary costs or savings imposed upon local agencies: Full implementation of the new requirements is expected to result in up to \$2,163 per year for each POU in the California ISO BAA, or a total of \$69,216 for all 32 POUs in the California ISO BAA. These numbers represent 30 hours of work for each POU in the California ISO BAA being performed by a staff person with a loaded salary of \$150,000/year (or \$72.11/hour). No cost savings have been identified for POUs in the California ISO BAA.
- Costs or savings in federal funding to the state: None

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The CEC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The CEC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Based on its analysis, the CEC has concluded that the proposed regulations: (1) will not create jobs within California, (2) will not eliminate jobs within California, (3) will not create new businesses in California, (4) will not eliminate existing businesses within California, and (5) will not result in the expansion of businesses currently doing business within the state.

The proposed regulations will benefit consumers, the health and welfare of California residents, worker safety, and the state's environment by:

- Bolstering resource adequacy by incentivizing the POUs in the California ISO BAA to procure sufficient capacity to meet customer electricity demand and reserves, thereby contributing to a more reliable electric system.
- Not running the ESSRRP's fossil fuel power plants that otherwise may be brought back online in times of energy deficiency.
- Providing a transparent process for assessing whether POUs in the California ISO BAA have met their resource adequacy obligations and PRM and whether a capacity payment should be assessed to deficient POUs in the California ISO BAA when ESSRRPs resources are called to meet a system reliability need.

REPORTING REQUIREMENTS

The proposed regulations do not impose reporting requirements on any businesses.

EFFECT ON SMALL BUSINESS

The proposed regulations do not impact any small businesses because the proposed regulations will not impact businesses of any size in California. Impacted POUs are classified as local government entities rather than businesses.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

ALTERNATIVES STATEMENT

In accordance with Government Code Section 11346.5, subsection (a)(13), the CEC must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposed regulation; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

No reasonable alternatives to the proposed regulation have been proposed that would lessen any adverse impact on small business or that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that achieves the purposes of the statute being implemented.

The CEC considered the following alternative:

Instead of imposing a 30-day deadline to submit requests for review in cases in which POU's in the California ISO BAA disagree with CEC assessments of PRM deficiencies, the CEC considered imposing a 15-day deadline. CEC staff determined that reducing the deadline to 15 days would not provide POU's with sufficient time to adequately gather documentation to dispute CEC findings.

CONTACT PERSONS

Questions should be addressed to:

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COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC has prepared an initial statement of reasons for the proposed regulations. To obtain a copy of the initial statement of reasons, the express terms of the proposed regulations, and all the information upon which the proposed rulemaking is based, please visit the [CEC's AB 1373 Capacity Payment to Implementation docket](#), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01>, or contact the contact person listed above.

AVAILABILITY OF CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from

CEC Commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the final statement of reasons once it has been prepared by visiting the [CEC's AB 1373 Capacity Payment to Implementation docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01),

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking, including this Notice of Proposed Action, the Express Terms, the Initial Statement of Reasons, and the Economic and Fiscal Impact Statements, as well as many other documents in the rulemaking file have been posted in the [CEC's AB 1373 Capacity Payment to Implementation docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01),

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01>.

INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING

To stay informed about this project and receive documents and notices of upcoming workshops and hearings as they are filed, please subscribe to the [CEC's AB 1373 Capacity Payment to Implementation docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01>. The subscription sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you do not wish to subscribe but still would like to receive documents and notices, please contact the public advisor listed in this notice to be placed on the mailing list for hard copies.