

DOCKETED

Docket Number:	24-OIR-01
Project Title:	Rulemaking on AB 1373 POU Capacity Payment to Implementation
TN #:	268858
Document Title:	24-OIR-01 - ISOR
Description:	N/A
Filer:	TJ Singh
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	2/27/2026 1:04:58 PM
Docketed Date:	2/27/2026

CALIFORNIA ENERGY COMMISSION

715 P Street
Sacramento, California 95814

energy.ca.gov



INITIAL STATEMENT OF REASONS
AB 1373 POU Capacity Payment Implementation
Title 20, California Code of Regulations
Adoption of Sections 1395 and 1396 in Division 2, Chapter 3

Docket No. 24-OIR-01
Notice Published on February 27, 2026

INTRODUCTION

The California Energy Commission (CEC) proposes to initiate a Rulemaking on AB 1373 Capacity Payment Implementation by adding Sections 1395 and 1396 to the California Code of Regulations (CCR), Title 20, Article 6, after considering all comments, objections, and recommendations regarding the proposed regulation.

Assembly Bill (AB) 1373 (Statutes of 2022, Chapter 663) requires the Department of Water Resources (DWR) to determine whether local publicly owned electric utilities (POUs)¹ in the California Independent System Operator (ISO) Balancing Authority Area (BAA) serving end-use customers have procured resources through the DWR's 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 Reliability Reserve Fund (Fund). These regulations will define the process for enforcing the new capacity payment and depositing of monies into the Fund.

PROBLEM STATEMENT

AB 1373 authorizes the DWR to procure electricity resources for grid reliability. Further, it authorizes the CEC to assess a capacity payment on local POUs in the California ISO BAA that fail to meet their minimum PRM in months when ESSRRP resources are used. However, the statute does not establish a specific regulatory process or criteria for determining when the ESSRRP has been used, how compliance of a POU in the California ISO BAA should be evaluated, or how capacity payments should be calculated and administered. This lack of clarity presents several problems:

- The statute does not define key terms such as "credits," "fiscal year," or "planning reserve margin," which are critical for consistent application of the law across multiple POUs in the California ISO BAA with differing operational practices.

¹ POUs are classified as local governmental entities rather than businesses. (See Pub. Utilities Code, § 224.3.)

- There is no established process to obtain or verify resource adequacy data from POU in the California ISO BAA, leading to potential inconsistencies in assessing deficiencies.
- There is no clear methodology for calculating whether a POU in the California ISO BAA is deficient and the amount of capacity payment it will owe if the if it fails to meet its obligations during periods of ESSRRP usage.
- There is no established process for notifying a POU in the California ISO BAA of its deficiency or allowing them to submit information to counter the payment assessment.

To address these issues, the proposed rulemaking adopts new Sections 1395 and 1396 in Title 20 of the California Code of Regulations. Section 1395 provides essential definitions to ensure all terms are understood uniformly. Section 1396 establishes the criteria for determining ESSRRP usage, the process for collecting data from the POU in the California ISO BAA and evaluating their performance, the formulas for calculating deficiency and capacity payments, and the procedures for notification, review, and remittance of assessed capacity payments. These additions create a transparent, fair, and enforceable framework to implement AB 1373 and support California’s broader goal of grid reliability and accountability among POU in the California ISO BAA.

BENEFITS

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 POU 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 POU in the California ISO BAA have met their resource adequacy obligations and PRM and whether a capacity payment should be assessed to deficient POU in the California ISO BAA when ESSRRPs resources are called to meet a system reliability need.

STATEMENT OF SPECIFIC PURPOSE AND NECESSITY

SECTION 1395. Definitions

Section: 1395(a)

Specific Purpose: The specific purpose of this subdivision is to define “Balancing Authority Area” or “BAA” as the collection of generation, transmission, and loads within the metered boundaries of the area within which the BAA maintains the electrical resource balance. The BAA maintains load resource balance within this area.

Necessity: This subdivision is necessary to establish a clear understanding of the geographic and operational boundaries relevant to resource adequacy and system

balancing. This subdivision ensures consistent identification of areas where capacity and load obligations are assessed.

Section: 1395(b)

Specific Purpose: The specific purpose of this subdivision is to define “CEC” as the State Energy Resources Conservation and Development Commission or the California Energy Commission.

Necessity: This subdivision is necessary to clarify that the term “CEC” refers to the California Energy Commission throughout the Article. This subdivision ensures consistency in interpretation and reinforces the CEC’s role as the regulatory authority.

Section: 1395(c)

Specific Purpose: The specific purpose of this subdivision is to define “Credits” as capacity resources used to reduce resource adequacy obligations for the purposes of capacity payment determinations but are not shown on supply plans.

Necessity: This subdivision is necessary to explain the treatment of credits in the calculation of capacity obligations. This subdivision ensures that such resources are accounted for consistently and accurately in assessing compliance with statutory obligations and calculating the amount of any capacity payment.

Section: 1395(d)

Specific Purpose: The specific purpose of this subdivision is to define “California ISO” as the California Independent System Operator as defined in Article 3 (commencing with Section 345) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

Necessity: This subdivision is necessary to ensure clear reference to the entity responsible for maintaining electric grid reliability and market operations. This subdivision supports consistent application of California ISO-related obligations and data references.

Section: 1395(e)

Specific Purpose: The specific purpose of this subdivision is to define “DWR” as the Department of Water Resources.

Necessity: This subdivision is necessary to ensure clear reference to the entity responsible for procuring emergency electricity resources and administering the ESSRRP. This subdivision helps ensure rules related to cost reporting, ESSRRP use, and coordination with the CEC for capacity payments are applied consistently.

Section: 1395(f)

Specific Purpose: The specific purpose of this subdivision is to define “ESSRRP” as the Department of Water Resources’ Electricity Supply Strategic Reliability Reserve Program established pursuant to Division 29 (commencing with Section 80700) of the Water Code.

Necessity: This subdivision is necessary to clearly define the program whose use triggers the capacity payment process. This subdivision ensures that all references to the ESSRRP are based on the statutory authority and scope established in the Water Code.

Section: 1395(g)

Specific Purpose: The specific purpose of this subdivision is to define “Fiscal year” as a 12-month period starting on October 1 and concluding on September 30 of the following calendar year.

Necessity: This subdivision is necessary to standardize the reporting and evaluation period for all capacity payment determinations. This subdivision ensures that all entities operate within the same fiscal framework.

Section: 1395(h)

Specific Purpose: The specific purpose of this subdivision is to define “Planning Reserve Margin (PRM)” as the percentage by which the total available capacity of system resources exceeds the forecasted peak demand, ensuring sufficient resources are available to meet forecasted demand over time. The PRM is set by the utility’s local regulatory authority.

Necessity: This subdivision is necessary to establish a consistent and measurable margin for assessing whether a POU in the California ISO BAA has sufficient resources. This subdivision provides a basis for determining compliance with minimum planning standards.

Section: 1395(i)

Specific Purpose: The specific purpose of this subdivision is to define “POU” as a local publicly owned electric utility serving end-use customers, as defined in Section 224.3 of the Public Utilities Code.

Necessity: This subdivision is necessary to identify which electric utilities are subject to these regulations. This subdivision ensures accurate and appropriate application of capacity payment provisions to the correct entities.

Section: 1395(j)

Specific Purpose: The specific purpose of this subdivision is to define “Summer” as the months of June, July, August, and September.

Necessity: This subdivision is necessary to clearly identify which months are considered summer for the purpose of calculating summer-specific capacity payment rates. This subdivision ensures consistent application of seasonal provisions throughout the regulation.

SECTION 1396. California ISO Publicly Owned Utility Capacity Payment Determinations and Notification

Section: 1396(a)

Specific Purpose: The specific purpose of this subdivision is to clarify that Article 6 applies only to those POUs in the California ISO BAA and relevant events occurring within the California ISO BAA.

Necessity: This subdivision is necessary to establish the scope of applicability for the capacity payment provisions. This subdivision ensures that the regulations are applied

only to POUs in the California ISO BAA where ESSRRP triggering events may occur and capacity payment requirements are relevant.

Section: 1396(b)

Specific Purpose: The specific purpose of this subdivision is to establish a clear and consistent process for the CEC to determine whether the ESSRRP was utilized during the fiscal year to address system reliability needs within the California ISO BAA.

Necessity: This subdivision is necessary to define the annual review process that initiates capacity payment determinations. This subdivision ensures transparency in how ESSRRP usage is identified and forms the basis for assessing whether local POUs in the California ISO BAA fulfilled their resource adequacy responsibilities.

Section: 1396(b)(1)

Specific Purpose: The specific purpose of this subdivision is to define the conditions under which an Energy Emergency Alert 1 (EEA 1) issued by the California ISO indicates that all resources are in use or committed, and energy deficiencies are expected.

Necessity: This subdivision is necessary to establish the first threshold at which ESSRRP use may be triggered under grid stress conditions. This subdivision provides context for determining if POUs in the California ISO BAA should have contributed additional resources during emergencies.

Section: 1396(b)(2)

Specific Purpose: The specific purpose of this subdivision is to define the conditions under which the California ISO issues an Energy Emergency Alert 2 (EEA 2) to request emergency energy from all resources and activates emergency programs.

Necessity: This subdivision is necessary to identify a critical escalation point during emergency events. This subdivision ensures consistent understanding of when the ESSRRP was triggered to maintain grid stability and helps determine whether POUs in the California ISO BAA should take additional steps to support reliability during these emergency events.

Section: 1396(b)(3)

Specific Purpose: The specific purpose of this subdivision is to define the first stage of an Energy Emergency Alert 3 (EEA 3), which the California ISO issues when the grid operator is unable to meet PRM requirements and begins preparing for rotating power outages.

Necessity: This subdivision is necessary to establish when the grid enters a high-risk condition. This subdivision helps determine whether POUs in the California ISO BAA were adequately meeting their PRM requirements during this high-risk stage.

Section: 1396(b)(4)

Specific Purpose: The specific purpose of this subdivision is to define the second stage of an Energy Emergency Alert 3 (EEA 3), which the California ISO issues when the grid operator orders utilities to implement rotating outages due to insufficient supply and reserve shortfalls.

Necessity: This subdivision is necessary to identify the most severe system emergency requiring full deployment of reserves. This subdivision marks the point at which POUs in the California ISO BAA are evaluated for having contributed to system deficiency impacts.

Section: 1396(c)

Specific Purpose: The specific purpose of this subdivision is to establish the process the CEC will follow to acquire ESSRRP usage cost data, impose a requirement, and describe the types of data that may inform the calculation of capacity payments, capacity unit costs, monthly deficiency, and RA obligation.

Necessity: This subdivision is necessary to initiate the cost and compliance analysis following ESSRRP deployment. This subdivision provides the structure for verifying whether POUs in the California ISO BAA met their planning obligations during reliability events.

Section: 1396(c)(1)

Specific Purpose: The specific purpose of this subdivision is to explain how the CEC will obtain cost data for ESSRRP and identify the months during which it was used.

Necessity: This subdivision is necessary to ensure the provide transparency on how the CEC will obtain accurate and timely information for determining the financial impact of ESSRRP operations. This subdivision supports transparency and informs subsequent assessments of POU in the California ISO BAA contributions to shortfalls.

Section: 1396(c)(2)

Specific Purpose: The specific purpose of this subdivision is to direct the POUs in the California ISO BAA to submit any data the CEC may require in order to assess whether they met their PRM during ESSRRP use months.

Necessity: This subdivision is necessary to provide the CEC with the authority to gather documentation needed from the POUs in the California ISO BAA to accurately assess whether they met their PRM during ESSRRP use months, which will inform whether or not they will owe a capacity payment. This subdivision ensures the CEC can fairly and accurately determine if a POU in the California ISO BAA failed to meet its resource adequacy obligation.

Section: 1396(c)(2)(A)

Specific Purpose: The specific purpose of this subdivision is to require, upon the CEC's request, POUs in the California ISO BAA to provide a summary of their month-ahead 1-in-2 coincident peak load forecast.

Necessity: This subdivision is necessary to provide a standardized basis for calculating the system obligation of each POU in the California ISO BAA. The 1-in-2 coincident peak load forecast represents the expected electricity demand under normal weather conditions at the same time the California ISO system reaches its peak demand. Using this forecast ensures all POUs are assessed on a consistent and comparable basis, supporting accurate compliance evaluations across POUs in the California ISO BAA.

Section: 1396(c)(2)(B)

Specific Purpose: The specific purpose of this subdivision is to require, upon the CEC's request, POU's in the California ISO BAA to submit their minimum PRM and explain that the CEC will apply a 15 percent minimum PRA initially if a POU has not provided one, unless that POU provides documentation of an alternative minimum PRM. The 15 percent reflects the California ISO's minimum reserve requirement and is applied to POU's that have not set their own PRM.

Necessity: This subdivision is necessary to ensure that every POU in the California ISO BAA is assessed against a reasonable planning standard. This subdivision provides a fallback mechanism to maintain consistency in PRM evaluations for those POU's in the California ISO BAA that do not have a PRM. For POU's that do not have a PRM, it makes sense for the default to align with what the California ISO uses, which is 15 percent.

Section: 1396(c)(2)(C)

Specific Purpose: The specific purpose of this subdivision is to require, upon the CEC's request, POU's in the California ISO BAA to identify and report any credits they are applying to reduce their monthly resource adequacy obligation.

Necessity: This subdivision is necessary to account for all relevant adjustments in adequacy calculations. This subdivision ensures that resource totals are not overstated and deficiencies are accurately measured. Furthermore, credits are part of the resource adequacy counting conventions and must be counted as required by statute.

Section: 1396(c)(2)(D)

Specific Purpose: The specific purpose of this subdivision is to require, upon the CEC's request, POU's in the California ISO BAA to report their total shown supply capacity for the applicable month.

Necessity: This subdivision is necessary to capture the total capacity used in determining compliance. This subdivision enables clear and consistent data analysis by CEC staff.

Section: 1396(c)(2)(E)

Specific Purpose: The specific purpose of this subdivision is to require, upon the CEC's request, POU's in the California ISO BAA to submit a copy of the supply plan submitted to the California ISO for the relevant fiscal year.

Necessity: This subdivision is necessary to verify that the capacity included in the evaluation aligns with the formal submissions from the POU's in the California ISO BAA. This subdivision ensures the ability to evaluate consistency between planned and reported resources.

Section: 1396(d)

Specific Purpose: The specific purpose of this subdivision is to establish a minimum 15-day deadline for POU's in the California ISO BAA to respond to CEC information requests, unless a shorter timeline is justified.

Necessity: This subdivision is necessary to give POU's in the California ISO BAA adequate time to respond to data requests while also ensuring the information is timely

provided. This subdivision also provides flexibility in scenarios that warrant expedited review. Any information the CEC would request under this section would be readily available to the POU; therefore, 15 days to provide it would be a sufficient amount of time to identify and electronically deliver it to the CEC.

Section: 1396(e)

Specific Purpose: The specific purpose of this subdivision is to establish a formula for calculating whether a POU in the California ISO BAA was deficient, which involves comparing its resource adequacy obligation to its total capacity and credits.

Necessity: This subdivision is necessary to ensure consistent application of compliance standards. This subdivision provides an objective and transparent methodology for determining when a deficiency has occurred.

Section: 1396(e)(1)

Specific Purpose: The specific purpose of this subdivision is to define “total capacity shown” as the sum of resource adequacy capacity of each resource included on the resource adequacy showings that the POUs in the California ISO BAA submit to California ISO for the month in question.

Necessity: This subdivision is necessary to clearly specify the source of capacity data used in compliance evaluations. This subdivision ensures all POUs in the California ISO BAA are assessed using comparable input sources.

Section: 1396(e)(2)

Specific Purpose: The specific purpose of this subdivision is to establish the formula the CEC will use to calculate the total system resource adequacy obligation of each POU in the California ISO BAA, a formula that is based on the POU’s forecasted peak load and PRM.

Necessity: This subdivision is necessary to provide a clear and consistent method for determining planning targets. This subdivision forms the baseline against which compliance is measured.

Section: 1396(e)(3)

Specific Purpose: The specific purpose of this subdivision is to define “total capacity credits” as the sum of credited resources submitted to the California ISO or the CEC.

Necessity: This subdivision is necessary to ensure all valid offsets to resource obligations are properly accounted for. This subdivision supports accurate net adequacy calculations.

Section: 1396(e)(4)

Specific Purpose: The specific purpose of this subdivision is to establish the formula for calculating the monthly deficiency and set criteria for when a POU in the California ISO BAA will be considered deficient.

Necessity: This subdivision is necessary to ensure that all POUs in the California ISO BAA are evaluated using a uniform and fair method. This subdivision establishes a consistent deficiency threshold used in capacity payment enforcement.

Section: 1396(f)

Specific Purpose: The specific purpose of this subdivision is to establish the process CEC staff will follow if it determines that a POU in the California ISO BAA failed to meet its minimum PRM for any month in which the ESSRRP was used.

Necessity: This subdivision is necessary to ensure that POUs in the California ISO BAA are properly notified of potential noncompliance and provided with relevant information and preliminary capacity payment estimates. The formula to arrive at deficiencies are based on standard methodology used by resource adequacy programs to evaluate whether shown RA supply is sufficient to meet the 1-in-2 peak demand forecast plus planning reserve margin. This subdivision ensures that POUs in the California ISO BAA are given a fair opportunity to review and respond to deficiency determinations.

Section: 1396(f)(1)

Specific Purpose: The specific purpose of this subdivision is to explain that CEC staff will notify a POU in the California ISO BAA within 14 days of determining that the POU failed to meet its minimum PRM. This amount of time is necessary to accommodate the CEC's internal review process for formal notices.

Necessity: This subdivision is necessary to ensure timely communication between CEC staff and affected POUs in the California ISO BAA. This subdivision supports prompt corrective action and review.

Section: 1396(f)(2)

Specific Purpose: The specific purpose of this subdivision is to explain that CEC staff will provide each deficient POU in the California ISO BAA with the information used to make the deficiency determination.

Necessity: This subdivision is necessary to ensure transparency and due process. This subdivision enables POUs in the California ISO BAA to understand the basis of a deficiency finding and prepare an informed response.

Section: 1396(f)(3)

Specific Purpose: The specific purpose of this subdivision is to explain that CEC will provide each deficient POU in the California ISO BAA with a preliminary estimate of the associated capacity payment based on the formula in Section 1396(h).

Necessity: This subdivision is necessary to give each deficient POU in the California ISO BAA an early indication of potential financial obligations. This subdivision allows the POU in the California ISO BAA to assess the impact and gather relevant data for a response.

Section: 1396(g)

Specific Purpose: The specific purpose of this subdivision is to allow each POU in the California ISO BAA to contest CEC staff's deficiency determination by submitting evidence either that it met its PRM or that the deficiency amount was overstated.

Necessity: This subdivision is necessary to ensure procedural fairness in the capacity payment process. This subdivision allows a POU in the California ISO BAA to provide clarifying or corrective documentation before CEC staff makes any final determination

that the POU failed to meet its minimum PRM for any month during which the ESSRRP was used.

Section: 1396(h)

Specific Purpose: The specific purposes of this subdivision are: to specify that CEC staff will consider any response that a POU in the California ISO BAA submits pursuant to Section 1396(g) in making any final determination that the POU failed to meet its minimum PRM for any month during which the ESSRRP was used; and establish the formula the Executive Director will use to calculate the capacity payment amount. The formula divides the total cost of procuring ESSRRP capacity into summer and non-summer periods to reflect when reliability needs are greatest. Two-thirds of the total cost is assigned to the four summer months, and one-third is assigned to the other eight months. The formula then converts the cost into a unit value (\$/kW-month) by dividing by the total capacity procured and applying a standard MW-to-kW conversion. Each utility's monthly payment is calculated by multiplying this unit cost by its monthly deficiency. This approach ensures that costs are only assigned to entities that fall short of their RA obligation, consistent with AB 1373's requirement that capacity payments be based on deficiencies that led to use of the ESSRRP.

Necessity: This subdivision is necessary to implement the capacity payment structure in an equitable and consistent manner. As required by statute, this subdivision ensures that POUs in the California ISO BAA are held accountable using a clear, formula-based method and supports recovery of reserve-related costs incurred by the state.

Section: 1396(i)

Specific Purpose: The specific purpose of this subdivision is to explain that the Executive Director may consider events outside the control of a deficient POU in the California ISO BAA when making a capacity payment recommendation.

Necessity: This subdivision is necessary to provide flexibility in the enforcement process and ensure fairness in cases where unforeseeable events affected the ability of a POU in the California ISO BAA to meet its PRM.

Section: 1396(j)

Specific Purpose: The specific purpose of this subdivision is to require a POU in the California ISO BAA to remit a capacity payment to the Fund's Local Publicly Owned Electric Utility Capacity Payment Account within 30 days of receiving written notification of CEC staff's assessment.

Necessity: This subdivision is necessary to ensure that the timeframe for submission of assessed capacity payments is consistent with the 30-day deadline set forth in statute. This subdivision supports cost recovery through the Local Publicly Owned Electric Utility Capacity Payment Account and maintains the financial integrity of the Fund.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR SIMILAR DOCUMENTS

The CEC has relied upon the following technical, theoretical, or empirical studies, reports, or similar documents in drafting the proposed regulations:

1. 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.

CONSIDERATION OF REASONABLE ALTERNATIVES, INCLUDING THOSE THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

No reasonable alternatives to the proposed regulations 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 regulations in a manner that achieves the purposes of the statute being implemented. The CEC considered the following alternative:

1. Instead of imposing a 30-day deadline to submit requests for review in cases where POUs disagree with CEC staff's 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 POUs with sufficient time to adequately gather documentation to dispute CEC staff's findings. Given anticipated routine workload and considering staff's availability to be responsive, the CEC determined that the 30-day deadline would provide adequate time to assemble the required information, field questions from CEC, and provide justification to support the POU position.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulations do not mandate specific technology or equipment.

ECONOMIC IMPACT ASSESSMENT

The Creation or Elimination of Jobs Within the State of California

The CEC does not expect the proposed regulation will create or eliminate jobs within the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The CEC does not expect the creation of new businesses or the elimination of existing businesses as a result of the proposed regulation.

The Expansion of Businesses Currently Doing Business within the State of California

The CEC does not expect the proposed regulation to impact the expansion of businesses currently doing business within the State of California.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulations are designed to improve energy reliability by ensuring POUs in the California ISO BAA meet their resource adequacy obligations and providing mechanisms to address deficiencies. These changes are expected to provide the following benefits:

1. Health and Welfare of California Residents: Improved energy reliability reduces the likelihood of blackouts, ensuring consistent access to essential services and contributing to public safety and well-being.
2. The State's Environment: By incentivizing clean energy investments to meet resource adequacy requirements, the regulations support California's environmental goals by promoting renewable energy development and reducing greenhouse gas and other emissions.

The benefits are primarily qualitative, as they contribute to improved public safety, economic stability, and environmental sustainability.

DETERMINATION THAT THE PROPOSED REGULATIONS WILL HAVE NO SIGNIFICANT ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS

The CEC has made an initial determination that the proposed regulations will not have a significant adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Evidence supporting the CEC's initial determination that the proposed regulation will not have a significant adverse economic impact on businesses can be found attached to this Initial Statement of Reasons in *Attachment A: Economic and Fiscal Impact Modeling, Assumptions, and Calculations*.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The CEC has determined that there are no existing comparable federal regulations or statutes.

FOR FURTHER INFORMATION

Inquiries concerning all aspects of the rulemaking process, including the substance of the proposed regulations or any other information upon which the proposed regulation is based, should be directed to the contact persons listed in the Notice of Proposed Action for this rulemaking.

ATTACHMENT A: ECONOMIC AND FISCAL IMPACT MODELING, ASSUMPTIONS, AND CALCULATIONS

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

A.1. CEC estimates that the proposed regulation will not impact any of the seven topics listed in A.1.

A.2. CEC estimates that the private sector cost impacts of the proposed regulations in the first year of the anticipated effect of the proposed regulations after full implementation and ongoing will be \$0.

A.3. CEC estimates that the proposed regulations will impact zero businesses in California. Impacted POUs are classified as local governmental entities rather than businesses. Government Code section 11342.610 defines small businesses in the utility or power transmission industry as entities that transmit 4.5 million or less kilowatt-hours of electricity. The POUs in the California ISO BAA affected by these regulations do not fit this definition because the number of kilowatt-hours they transmit are above the transmission threshold and they are local governmental entities rather than businesses.

A.4. CEC has determined that the proposed regulations do not create businesses in California. CEC staff has also determined that the proposed regulations do not eliminate businesses in California. The proposed regulations only impact local governmental POUs and the CEC, which are considered businesses.

A.5. The proposed regulations do not have a statewide geographic impact on businesses. The 32 POUs in the California ISO BAA affected by the proposed regulations are local governmental agencies. These POUs are geographically dispersed and serve various parts of California.

A.6. CEC has determined that the proposed regulations will neither create nor eliminate jobs in California.

A.7. CEC has determined that the proposed regulations will not affect the ability of California businesses to compete with other states because the proposed regulations do not make it more costly to produce goods or services here.

B. ESTIMATED COSTS

B.1. CEC has determined that there are no initial and ongoing costs for small businesses, typical businesses, and individuals.

B.2. CEC has determined that there are no identified economic costs of the proposed regulations that impact any industries.

B.3. The proposed regulations do not impose reporting requirements on any businesses.

B.4. The proposed regulations are not expected to directly impact housing costs.

B.5. The CEC conducted a search for any other regulations in this area of rulemaking and concluded that the proposed capacity payment regulations represent the only regulations that impact local governmental POU's in the California ISO BAA. Therefore, the CEC has determined that the proposed regulations are neither inconsistent nor incompatible with any existing federal regulations.

C. ESTIMATED BENEFITS

C.1. POU's in the California ISO BAA will be liable financially for failing to meet resource adequacy requirements, which incentivizes them to make careful planning efforts. Consumers will experience the health and safety benefits of a reliable grid by reduced blackouts. The California environment will also benefit from reduced electricity generation emissions.

C.2. The proposed regulations contribute to the state's clean energy efforts and major policy goals by supporting electric reliability.

C.3. The proposed regulations will implement the AB 1373 requirements applicable to the CEC. One component of this implementation will provide a transparent process for assessing whether POU's in the California ISO BAA have met their resource adequacy obligations and PRM. This process, including specific calculations, further informs whether a capacity payment should be assessed to deficient POU's in the California ISO BAA when ESSRRP resources are called upon to meet a system reliability need. Each POU in the California ISO BAA will be responsible for meeting system resource adequacy requirements and held financially liable should the CEC determine a deficiency exists. This will incentivize the POU's in the California ISO BAA to conduct careful planning efforts to ensure that PRMs are met and avoid paying a capacity payment. The uniformity of a calculation to be used across all POU's in the California ISO BAA provides transparency related to the process and implementation of the statute.

The proposed regulations will benefit consumers by ensuring POU's procure sufficient resource capacity to meet customer electricity demand and reserves, thereby contributing to a more reliable electric grid and a reduced number of blackouts. These requirements will benefit California residents and businesses particularly during excessive heat periods in California and wildfires, which threaten transmission lines.

The proposed regulations will provide consumer health and safety benefits by ensuring a more reliable power supply, thereby reducing incidents of heat-related injuries and illnesses and increasing the likelihood that life-saving medical equipment will stay online.

for a greater percentage of time. Calculating the number of lives saved and injuries avoided is difficult because heat-related hospital and doctor visits data is imperfect. Tools exist for quantifying these types of impacts economically, but these estimated calculations go beyond the scope of a non-major regulation economic impact analysis. Other examples of improved public safety include more reliable streetlighting, home alarm systems, and electric vehicle charging systems. It is unknown at this time how much improvement in reliability will be realized through implementation of these regulations. It is, however, clear that the impact will be positive.

The proposed regulations will provide the State with environmental benefits by incentivizing POUs in the California ISO BAA to procure sufficient resource capacity to meet customer electricity demand, thereby reducing the need to run ESSRRP's fossil fuel power plants that otherwise might be brought back online in times of energy deficiency. The power plants operated by the ESSRRP are largely natural gas plants that create associated criteria air pollutants and carbon dioxide emissions.

This regulation may create a more equitable and effective approach to achieving state energy resource adequacy and system balancing by holding POUs in the California ISO BAA to similar standards imposed on Investor-Owned Utilities. Moreover, these regulations will create a larger buyers' market – with potentially more leverage and buying power – for alternative energy sources. This may drive market prices downward. However, increased demand for these alternative energy sources may counterbalance price decreases to some extent.

C.4. The proposed regulations may promote the expansion of businesses in the renewable energy and energy storage sectors as these industries provide additional capacity resources to POUs in the California ISO BAA.

D. ALTERNATIVES TO THE REGULATION

D.1. The proposed regulations are based on a reasonable interpretation of the applicable sections of AB 1373 and provide express terms consistent with the implementation of the relevant statutes. No reasonable alternatives to the proposed regulations 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 regulations in a manner that achieves the purposes of the statute being implemented. The CEC considered the following alternative:

1. Instead of imposing a 30-day deadline to submit requests for review in cases where POUs disagree with CEC assessments of PRM deficiencies, the CEC considered imposing a 15-day deadline. CEC determined that a 15-day deadline would not provide POUs with sufficient time to adequately gather documentation to dispute CEC findings.

D.2. No alternative to the proposed regulations provided less burdensome and equally effective routes of compliance. See D.1.

D.3. Consumer costs and benefits related to the implementation of the proposed regulations and alternative are not calculated quantitatively, but rather qualitatively. The unexpected loss of power and the inability to utilize the electric grid can have consequences that range from mild to catastrophic. Consumers are dependent on POU's in the California ISO BAA to provide a safe, reliable grid.

D.4. The regulations incentivize the POU's in the California ISO BAA to conduct careful planning efforts to meet resource adequacy requirements and avoid a capacity payment. The proposed regulations set forth the formulas used to determine whether there is a deficiency in resource adequacy requirements.

The CEC made every effort to consider performance standards where possible. The areas where specific requirements are prescribed are necessary to ensure consistency and compliance with statutory requirements and provide benefits to the health and welfare of California residents, worker safety, and the state's environment.

E. MAJOR REGULATIONS

E.1. – E.3. These requirements are not applicable to the CEC as it is not a California Environmental Protection Agency board, office, or department.

E.4. CEC has determined that the proposed regulations are not major regulations. The total economic impact of the regulations in any measured 12-month period between filing with the Secretary of State and 12 months after full implementation is \$0.

E.5. Investment in California may remain the same as the reporting requirements only capture information that is being produced in the course of current business activities.

The nature of the regulations is focused on collection and dissemination of prescriptive information so the potential for innovation is limited.

POU's in the California ISO BAA will be liable financially for failing to meet resource adequacy requirements. Consumers will experience the benefits of a reliable grid by reduced blackouts.

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

A.6. The proposed regulations impact 32 POU's in the California ISO BAA, which are considered local governmental agencies in California. POU's in the California ISO BAA, or municipal utilities, are controlled by citizen-elected governing boards and use public financing. These municipal utilities own generation, transmission, and distribution assets. Municipal utilities serve about 27 percent of California's total electricity demand. CEC estimates that the direct administrative costs of the proposed regulations to

regulated entities in the first year after full implementation and ongoing will be \$2,163 per POU in the California ISO BAA or approximately \$69,216 for all 32 POUs in the California ISO BAA. These figures represent 30 hours of work for each POU in the California ISO BAA to be performed by a staff person with a loaded salary of \$150,000 annually or \$72.11 per hour. The total cost impacts over three fiscal years equal \$207,648 for all POUs currently existing.

B. FISCAL EFFECT ON STATE GOVERNMENT

B.4. The proposed regulations will impact the CEC.

The CEC will incur costs associated with enforcing new regulations, providing new guidance to POUs in the California ISO BAA, and administering program calculations and other requirements. These costs are estimated to be \$64,964 in the first year of the anticipated effective date of the proposed regulations and ongoing. This includes 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.

The total cost impacts to the state over three fiscal years equal \$194,892. Assessed fees arising from this regulation will flow into the Load-Serving Entity Capacity Payment Account, which may yield positive fiscal impacts. However, CEC cannot predict into the future the number and scope of POUs that will fail to comply with the regulation. Additionally, POUs may attempt to pass along these increased costs to electricity consumers.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

C.3. The CEC has determined that the proposed regulations have no fiscal impacts on federal funding of state programs.