

DOCKETED

Docket Number:	24-OIR-01
Project Title:	Rulemaking on AB 1373 POU Capacity Payment to Implementation
TN #:	272468
Document Title:	Office of Administrative Law - Approval 1373 Regulations
Description:	N/A
Filer:	Blanca Munoz
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	9/10/2026 11:25:04 AM
Docketed Date:	9/10/2026

**State of California
Office of Administrative Law**

In re:
California Energy Commission

Regulatory Action:

Title 20, California Code of Regulations

Adopt sections: 1395, 1396

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2026-0720-01

OAL Matter Type: Regular (S)

This rulemaking action by the California Energy Commission adopts regulations to establish a process for assessing annual capacity payments by local publicly owned utilities for failing to meet minimum planning reserve margins during a fiscal year.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2026.

Date: August 31, 2026



**Kevin D. Hull
Assistant Chief Counsel**

**For: Kenneth J. Pogue
Director**

**Original: Drew Bohan, Executive Director
Copy: Ross Daley**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2026-0217-03	REGULATORY ACTION NUMBER 2026-0720-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
OFFICE OF ADMINISTRATIVE LAW Electronic Submission		OFFICE OF ADMIN. LAW 2026 JUL 20 PM1:54	
REC'D DATE 02/17/2026	PUBLICATION DATE 02/27/2026		
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 31 2026

2:23 pm

NM

AGENCY WITH RULEMAKING AUTHORITY California Energy Commission	AGENCY FILE NUMBER (If any) 24-OIR-01
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

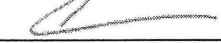
1. SUBJECT OF NOTICE POU Capacity Payments		TITLE(S) 20	FIRST SECTION AFFECTED 1395	2. REQUESTED PUBLICATION DATE 2/27/2026
3. NOTICE TYPE ☒ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON Ross Daley	TELEPHONE NUMBER (916) 980-7949	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2026, 09-Z	PUBLICATION DATE 2/27/26	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) POU Capacity Payments		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 1395-1396	
TITLE(S) 20		AMEND	
3. TYPE OF FILING		REPEAL	
☒ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b))			
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify)			
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) ☐ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☐ Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify)			

7. CONTACT PERSON Ross Daley	TELEPHONE NUMBER 916-980-7949	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Ross.Daley@energy.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 6/10/2026
TYPED NAME AND TITLE OF SIGNATORY Drew Bohan, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 31 2026

Office of Administrative Law

EXPRESS TERMS

California Code of Regulations

Title 20. Public Utilities and Energy

Division 2. State Energy Resources Conservation and Development Commission

Chapter 3. Data Collection

Proposed new language appears as underline (example) and proposed deletions appear as strikeout (~~example~~). Existing language appears as plain text. Three dots or "... " represents the substance of the regulations that exists between the proposed language and current language.

Article 6. Local Publicly Owned Electric Utility Capacity Payment

§1395. Definitions

For the purposes of this Article, the following definitions apply:

(a) "Balancing Authority Area" or "BAA" means the collection of generation, transmission, and loads within the metered boundaries of the area within which the balancing authority maintains the electrical load-resource balance.

(b) "California ISO" means 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.

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

(d) "Credits" means capacity resources used to reduce resource adequacy obligations for the purposes of capacity payment determinations but that are not shown on supply plans.

(e) "DWR" means the Department of Water Resources.

(f) "ESSRRP" means the Department of Water Resources' Electricity Supply Strategic Reliability Reserve Program established pursuant to Division 29 (commencing with Section 80700) of the Water Code.

(g) "Fiscal year" means a 12-month period starting on October 1st and concluding on September 30th of the following calendar year.

(h) Planning Reserve Margin” or “PRM” means the percentage by which the total available capacity of a utility’s resources exceeds the utility’s forecasted peak demand. The PRM is set by the utility’s local regulatory authority.

(i) “Publicly Owned Electric Utility” or “POU” has the meaning set forth in Section 224.3 of the Public Utilities Code.

(j) “Summer” means the months of June, July, August, and September.

NOTE: Authority cited: Section 80714, Water Code. Reference: Section 80714, Water Code.

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

(a) This Article applies only to POUs in the California ISO BAA for events located in the California ISO BAA.

(b) In January of each year, the CEC will request from DWR cost information for the previous fiscal year to determine if any POU used resources procured through the ESSRRP in any month during the fiscal year. The ESSRRP will be considered used for a given month if any ESSRRP resource has operated above its minimum operating level during one of the following events to meet a system reliability need:

(1) EEA 1: An energy emergency alert that the California ISO issues to indicate that the California ISO’s real-time analysis shows all resources are in use or committed for use and energy deficiencies are expected.

(2) EEA 2: An energy emergency alert that the California ISO issues to request emergency energy from all resources and to indicate that it has activated emergency energy programs.

(3) EEA 3 – Preparing for Rotating Power Outages: an energy emergency alert that the California ISO issues to indicate that the California ISO grid operator is unable to meet minimum reliability reserve requirements and has declared the initial step of an EEA 3.

(4) EEA 3 – Ordering Rotating Power Outages: an energy emergency alert that the California ISO issues to indicate that the grid operator has ordered utilities to begin rotating power outages to protect grid reliability. The final step of an EEA 3 is

declared when electricity supply is insufficient to meet demand and required reserves cannot be maintained.

(c) If DWR determines that the ESSRRP was used in the relevant fiscal year:

(1) The CEC will request from DWR the costs associated with procuring all the resources that made up the ESSRRP for the fiscal year, including each month in which the ESSRRP was used.

(2) The CEC will request from the California ISO any resource adequacy showings submitted by POU's for use as a starting point to determine whether the POU failed to meet its minimum PRM for any month during which the ESSRRP was used. Upon the CEC's request, a POU shall submit its resource adequacy showings, as well as any other information the CEC requires for this determination, including but not limited to:

(A) A summary of the POU's month-ahead forecasted 1-in-2 coincident peak load.

(B) The POU's minimum PRM. If the POU has not provided a minimum PRM, a 15 percent minimum PRM will be used initially unless the POU provides documentation of an alternate minimum PRM.

(C) Any credits for the month during which the ESSRRP was used.

(D) Total supply capacity shown for the month during which the ESSRRP was used.

(E) The supply plan that the POU submitted to the California ISO for the relevant fiscal year.

(d) The CEC shall provide POU's at least 15 days to respond to any request issued pursuant to subdivision (c)(2) of this section.

(e) A POU shall be deemed deficient if the total capacity shown is less than its total system resource adequacy obligation minus total credits for that month.

(1) A total capacity shown is the sum of the resource adequacy capacity of each resource included on the resource adequacy showings submitted by the POU to the California ISO for the given month.

(2) The total system resource adequacy obligation shall be determined according to the following calculation:

RA Obligation =

$$1 - \text{in-2 month ahead coincident peak load forecast} * \left(1 + \frac{PRM(\%)}{100\%}\right)$$

(3) The total capacity credits shown is the sum of the credited resources that the POU submits to the California ISO or the CEC for the given month.

(4) The total deficiency for a month in which the POU is deemed deficient shall be determined according to the following equation:

Monthly Deficiency =

$$\text{Total Shown RA} - \left(\text{RA Obligation} - \sum \text{Credits} \right)$$

Deficient: Monthly deficiency < 0

Excess: Monthly deficiency ≥ 0, then Monthly deficiency = 0

(f) If CEC staff determines that a POU failed to meet its minimum PRM for any month during which the ESSRRP was used, CEC staff shall do all of the following:

(1) Notify the POU within 14 days after making the determination;

(2) Provide the POU with the information on which CEC staff based the determination; and

(3) Provide the POU with a preliminary estimate of the associated capacity payment determined using the equation in subdivision (h).

(g) If a POU disagrees with CEC staff's initial determination, it may, no later than 30 days after receiving the notification in subdivision (f)(1), submit any information, data, invoices, or other documentation to demonstrate either that the POU met its minimum PRM or that the deficiency amount was lower than that determined by CEC staff, for any month in which CEC staff found the POU to be deficient.

(h) The Executive Director shall assess a capacity payment for a POU in accordance with the following capacity payment unit cost and capacity payment calculations if, after considering any response provided pursuant to subdivision (g) of this section, CEC staff makes a final determination that a POU failed to meet its minimum PRM for any month during which the ESSRRP was used.

$$\begin{aligned}
 & \text{Summer Capacity Payment Unit Cost} \left(\frac{\$}{kW - Mo.} \right) \\
 &= \frac{0.667 * \sum \text{Total Cost}}{(4 \text{ months}) * \left(\frac{1000 kW}{1 MW} \right) * \sum \text{Total Capacity Procured}} \\
 & \text{Other Months Capacity Payment Unit Cost} \left(\frac{\$}{kW - Mo.} \right) \\
 &= \frac{0.333 * \sum \text{Total Cost}}{(8 \text{ months}) * \left(\frac{1000 kW}{1 MW} \right) * \sum \text{Total Capacity Procured}} \\
 & \text{Capacity Payment}(\$) \\
 &= (\text{Capacity Payment Unit Cost}) \times (\text{Monthly Deficiency})
 \end{aligned}$$

(i) The Executive Director may reduce the assessed capacity payment pursuant to Water Code section 80714, subdivision (b) if they determine there were events outside of the POU's control that affected the POU's ability to meet its PRM.

(j) If a capacity payment is assessed, the POU shall, within 30 days from the date of written notification to the POU, remit the assessed capacity payment to the Local Publicly Owned Electric Utility Capacity Payment Account under DWR's Electricity Supply Reliability Reserve Fund.

NOTE: Authority cited: Section 80714, Water Code. Reference: Sections 80714, Water Code.