DOCKETED	
Docket Number:	24-OIR-01
Project Title:	Rulemaking on AB 1373 POU Capacity Payment to Implementation
TN #:	272469
Document Title:	Final Statement of Reasons and Updated Informative Digest
Description:	N/A
Filer:	Blanca Munoz
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	9/10/2026 11:29:04 AM
Docketed Date:	9/10/2026

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FINAL STATEMENT OF REASONS

AB 1373 POU Capacity Payment Implementation
OAL Z # 2026-0217-03
Docket No. 24-OIR-01

INTRODUCTION

The California Energy Commission (CEC) proposes to adopt changes to AB 1373 POU Capacity Payment Implementation in 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.

UPDATE OF THE INITIAL STATEMENT OF REASONS

No comments were received during public comment periods. The following non-substantive changes were made to the proposed regulatory language adopted by the California Energy Commission:

SECTION 1395. Definitions

Section: Subdivision 1395(a)
Summary of Change and Specific Purpose: Non-substantive amendment to definition to remove "supply and demand balance" and add "the electrical load-resource balance" to match statutory reference.
Necessity: This non-substantive amendment is necessary to clarify that the proposed language matches the statutory language which it is based upon.

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

Section: Subdivision 1395(i)
Summary of Change and Specific Purpose: Non-substantive amendment to definition to make the definition have "the meaning set forth in Section 224.3 of the Public Utilities Code" and to ensure consistency with that statutory reference.
Necessity: This non-substantive amendment is necessary to clarify that the proposed language has the exact meaning set forth in Section 224.3 of the Public Utilities Code.

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

Section: Subdivision 1396(g)
Summary of Change and Specific Purpose: Non-substantive amendment to add "pursuant to Water Code section 80714, subdivision (b)."
Necessity: This non-substantive amendment is necessary to clarify that the Executive Director's assessments are made pursuant to the authority provided in Water Code section 80714, subdivision (b).

Section: Subdivision 1396
Summary of Change and Specific Purpose: Non-substantive amendment to remove unnecessary reference section from note.
Necessity: This non-substantive amendment is necessary to remove an incorrect reference section originally listed in the reference and authority note of Section 1396.

LOCAL MANDATE DETERMINATION

The proposed regulations impact 32 POUs in the California ISO BAA, which are considered local governmental agencies in California. POUs 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 currently existing POUs. No reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program mandated by these regulations, within the meaning of Section 17556 of the Government Code.

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

The CEC determined pursuant to Government Code section 11346.9(a)(4) that no

alternative before it would be more effective in carrying out the purpose for which this action is proposed; no alternative would be as effective as and less burdensome to affected persons than the adopted regulations; and no alternative would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The adopted regulations will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business.

The CEC considered the following alternatives:

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.

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.

All documents relied upon were made available upon request directly from the CEC throughout the course of this rulemaking action. Any documents additionally relied upon since the initial publication of this rulemaking action were also made available for public review in compliance with Government Code Section 11347.1.

UPDATED INFORMATIVE DIGEST

The CEC finds that no revisions have been made that would warrant a change to the informative digest contained in the Notice of Proposed Action.

SUMMARY OF RESPONSES TO PUBLIC COMMENTS RECIEVED

There were no public comments filed.