DOCKETED	
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Project Title:	Rulemaking on AB 1373 POU Capacity Payment to Implementation
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CALIFORNIA ENERGY COMMISSION

RESOLUTION: PUBLICLY OWNED UTILITY CAPACITY PAYMENT REGULATION

RESOLUTION NO: 26-0526-05

WHEREAS, on Friday, February 27, 2026, the State Energy Resources Conservation and Development Commission ("California Energy Commission" or CEC) mailed and posted on the CEC's website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC's intent to adopt proposed regulations for AB 1373 Publicly Owned Utility (POU) Capacity Payment Implementation, an Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the Economic Impact Statement (Form 399); and

WHEREAS, on Friday, February 27, 2026, the NOPA was published in the California Regulatory Notice Register, delivered to the Secretary of the California Natural Resources Agency, and distributed to the following CEC subscription lists: Electricity Issues, Resource Planning and Reliability, and Disadvantaged Communities Advisory Group.

WHEREAS, on Tuesday, April 14, 2026, the 45-day written comment period established by the NOPA closed; and

WHEREAS, on Tuesday, May 12, 2026, the CEC staff posted a Notice of Adoption Hearing, informing interested parties and the public that the CEC would consider and possibly adopt the proposed regulations at a Tuesday, May 26, 2026, Business Meeting of the CEC; and

WHEREAS, each of the above-referenced documents and notices was provided to every person on the following CEC subscription lists: Electricity Issues, Resource Planning and Reliability, and Disadvantaged Communities Advisory Group, and to every person who had requested notice of such matters, and was posted to the CEC's website; and

WHEREAS, on Tuesday, May 26, 2026, the CEC considered adoption of the proposed regulations at its Business Meeting.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

<u>With regard to the California Environmental Quality Act:</u>

- The CEC has considered the application of the California Environmental Quality Act (CEQA) to the proposed regulations and concluded that the proposed

regulations are not a “project” for purposes of CEQA as this action does not result in any direct physical change in the environment, or in a reasonably foreseeable indirect physical change in the environment. Moreover, even if adoption of the proposed regulations were a project, it would be exempt from CEQA under the common sense exemption pursuant to section 15061(b)(3) of title 14 of the California Code of Regulations; and

With regard to the Water Code:

- The proposed regulations will enable the CEC to implement Water Code section 80714(a), which requires the CEC to annually assess a capacity payment in specified circumstances on local publicly owned electric utilities (POU) in the California Independent System Operator (ISO) balancing area. Under section 80714, these capacity payments accrue to a POU in any given month that, as determined by the Department of Water Resources, the POU both procures resources through the Electricity Supply Strategic Reliability Reserve Program and, during the same month, fails to meet its planning reserve margin. The proposed regulations enable the CEC to assess the statutorily required capacity payments under these circumstances and to deposit those payments into the Electricity Supply Strategic Reliability Reserve Fund (Fund); and

- The proposed regulations satisfy the substantive and procedural requirements of Water Code section 80714, including defining the process for assessing the capacity payment, calculating the capacity payment consistent with the methodology specified in Water Code section 80714(b), and depositing the monies into the Fund; and

- The CEC has authority to adopt these proposed regulations under Water Code section 80714(c); and

With regard to the Administrative Procedure Act:

- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not result in the expansion of businesses currently doing business in California, and will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and

- The proposed regulation will not impose direct costs or savings, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code, except for $207,648 in total costs for POUs in the California ISO balancing area in aggregate over three years for recordkeeping and reporting; and

- The proposed regulations will not result in the creation or elimination of jobs within California; and

- The proposed regulations will not result in costs or savings in federal funding to the State of California; and

- The proposed regulations will not result in nondiscretionary costs or savings to local agencies or school districts; and

- The proposed regulations will not have an impact on housing costs; and

- The proposed regulations will not result in cost impacts to representative private persons or businesses in reasonable compliance with the regulations; and

- The proposed regulations will not adversely impact the health and welfare of California residents, or worker safety, or the state's environment; and

- The proposed regulations will not require completion of any new report, but minimal additional information may be required. It is necessary for the welfare of the people of the state of California that these regulations apply to businesses.

- The proposed regulations have no alternatives that would be more effective in carrying out the purpose of the statutes for which it is proposed, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes; and

- The proposed 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; and

- No comments were received during the comment period, and nothing else in the record justified any changes to the proposed regulations as published on Friday, February 27, 2026.

THEREFORE, BE IT RESOLVED, that, on the basis of the entire record before it, the CEC finds that adoption of the proposed regulations does not result in any direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore this is not a project for purposes of CEQA, and even if the adoption of the proposed regulations were a project, it is exempt from CEQA under the common sense exemption because there is no possibility that the proposed regulations will have a significant effect on the environment; and

FURTHER BE IT RESOLVED, after considering all comments received and the staff's responses, and based on the entire record of this proceeding, the CEC hereby adopts the proposed regulations, as set forth in the express terms that were published on February 27, 2026, and incorporating any changes presented and adopted today.

The CEC takes this action under the authority of Water Code section 80714, which authorizes the CEC to adopt regulations to implement the capacity payment requirements specified in Water Code sections 80714(a)-(b); and

FURTHER BE IT RESOLVED, that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814. Many of these documents are also available online in Docket Number 24-OIR-01, https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-OIR-01; and

FURTHER BE IT RESOLVED, the CEC delegates the authority and directs staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and preparing and filing the Notice of Exemption with the State Clearinghouse. This delegation explicitly includes authority for the Executive Director or Chief Deputy Director to sign the Form 400 on behalf of the CEC.

APPROVED AND ADOPTED this 26th day of May 2026, by the following vote:

AYE: Hochschild, Gunda, McAllister, Gallardo, Skinner
NAY: None
ABSENT: None
ABSTAIN: None

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly approved and adopted by the affirmative vote of the CEC at a meeting held on May 26, 2026.



Kim Todd
Secretariat