

DOCKETED

Docket Number:	16-OIR-04
Project Title:	Integrated Resource Plans (Publicly Owned Utilities)
TN #:	212112
Document Title:	Northern California Power Agency Comments on 4-18-16 POU IRP Workshop
Description:	N/A
Filer:	Patty Paul
Organization:	Northern California Power Agency/Law Offices of Susie Berlin
Submitter Role:	Public
Submission Date:	7/5/2016 1:17:19 PM
Docketed Date:	7/1/2016

DOCKETED

Docket Number:	16-OIR-01
Project Title:	General Rulemaking Proceeding for Developing Regulations, Guidelines and Policies for Implementing SB 350 and AB 802
TN #:	211568
Document Title:	Northern California Power Agency Comments on 4-18-16 POU IRP Workshop
Description:	N/A
Filer:	Susie Berlin
Organization:	Law Offices of Susie Berlin
Submitter Role:	Public Agency
Submission Date:	5/19/2016 3:38:29 PM
Docketed Date:	5/19/2016

BEFORE THE CALIFORNIA ENERGY COMMISSION

**In the matter of:
Developing Regulations, Guidelines
and Policies for Implementing
SB 350 and AB 802**

Docket No. 16-OIR-01

**NORTHERN CALIFORNIA POWER AGENCY COMMENTS ON
LEAD COMMISSIONER WORKSHOP ON PUBLICLY OWNED ELECTRIC
UTILITIES INTEGRATED RESOURCE PLANS**

The California Energy Commission (CEC or Commission) hosted a workshop on April 18, 2016 regarding Publicly Owned Utility Integrated Resource Plans (April 18 Workshop). The Northern California Power Agency (NCPA)¹ appreciates the opportunity to provide these comments to the Commission regarding the April 18 Workshop, and to address issues regarding the Commission’s implementation of the provisions of Public Utilities Code (PUC)² section 9622,³ adopted as part of Senate Bill (SB) 350.

Introduction

While the statutory mandate set forth in section 9621⁴ for publicly owned utilities (POUs) to create an integrated resource plan is new, POU comprehensive resource planning is not. During the April 18 Workshop, NCPA and its four member utilities subject to the provisions of section 9621 were among more than a dozen agencies that presented information to the Commission regarding resource planning efforts that are already part of the POUs’ normal processes, consistent with prudent utility practices and compliance with numerous existing legislative and regulatory mandates. Indeed, regardless of the size of the POU, integrated resource planning is an essential part of utility management and operations. While the POUs may not always call their respective planning processes “integrated resource planning,” that does not change the fact that each utility must review and plan for myriad factors and contingencies on an ongoing basis in order to meet their mandate to provide safe and reliable electricity to their customers at a reasonable cost.

¹ NCPA is a not-for-profit Joint Powers Agency, whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, and the Truckee Donner Public Utility District, and whose Associate Member is the Plumas-Sierra Rural Electric Cooperative.

² Unless otherwise noted, all section references shall be to the Public Utilities Code.

³ PUC section 9622 authorizes the CEC to review the integrated resource plans and plan updates submitted by the POUs and provide recommendations to correct deficiencies if the IRP is found to be inconsistent with the statutory requirements. Section 9622 also provides that the Commission may adopt guidelines to govern the submission of information, data, and reports needed to support the Commission’s review of the POUs’ IRPs.

⁴ PUC section 9621 requires POUs that meet a minimum threshold to adopt an integrated resource plan and process for updating the plan on or before January 1, 2019. Section 9621 also sets forth items that a POU is required to address in the IRP.

NCPA and its member utilities look forward to partnering with the Commission in development of guidelines for the implementation of section 9622 that will provide the Commission with a reference guide to review the planning documents submitted by each POU and enable the agency to confirm that the elements articulated in section 9621 have been addressed by each local governing board that approved the POU's integrated resource plan (IRP) document. If the Commission decides to develop such guidelines, they could be designed to provide a framework for the Commission's feedback to the POUs in the event that it believes there are deficiencies in a POU's compliance with the statutory mandates.

The Commission's Role

The Commission's role in the IRP process is centered around the directive to review the IRPs submitted by POUs, and if the Commission determines an IRP is inconsistent with the requirements of section 9621, provide recommendations to the POU to correct the deficiencies.⁵ In order to support this role, the Commission may adopt guidelines to govern the submission of information necessary to review the POU IRPs.⁶

Included in the many requirements of Section 9621 are mandates that POUs consider greenhouse gas (GHG) reductions⁷; ensure compliance with the renewables portfolio standard (RPS)⁸; address energy efficiency and demand resources,⁹ energy storage resources,¹⁰ and resource adequacy planning,¹¹ all while demonstrating how the POU will maintain system reliability, and strengthen and enhance transmission and distribution systems and demand-side energy management, and ensure just and reasonable electric rates and minimize bill impacts for their customers.¹² Again, as demonstrated by the POUs in their April 18 presentations, these are not items that the POUs will be considering for the first time; the new law merely lists all of these items in one place, and even then does not include an exhaustive list of the myriad factors that are part of the entire utility planning process. Many of these also regard elements of electricity procurement and service that are the subject of annual reports already submitted to the Commission or other agencies. It is within this construct that the Commission should embark upon the development of the section 9622 guidelines, to the extent it chooses to establish such a document.

The Role of Local Governing Boards

The Commission guidelines should reflect an understanding of the fundamental governance structure under which the IRPs were developed and ultimately approved, and must respect the

⁵ PUC section 9622(b).

⁶ PUC section 9622(c).

⁷ PUC section 9621(b)(1).

⁸ PUC section 9621(b)(2)

⁹ PUC section 9621(c)(1)(A).

¹⁰ PUC section 9621(c)(1)(B).

¹¹ PUC section 9621(c)(1)(D).

¹² PUC section 9621(b)(3); these reflect only a partial list of the items covered in section 9621.

autonomy and authority of the local governing boards of the POU. This recognition will help frame the context of the Commission's review, which is focused on ensuring that the IRPs comply with each of the mandated elements of the statute, but not to make independent determinations regarding resource preferences within each of those elements. As the Commission is well aware, there are considerable differences between the various POU. These differences include the climate in which they are located, the type of electric load they serve, customer demographics, and regional variations, to name a few. This diversity is inherently recognized in the drafting of section 9621, which requires the POU to address the various statutory and regulatory mandates regarding electricity procurement matters, but also allows for the POU to meet the State's energy and climate objectives in the most cost-effective manner by not mandating a specific resource type or mix, or specific technologies or services for all entities.¹³ As such, the group of individual POU IRPs will not include the same mix of electricity resources, services, and programs. Should the Commission elect to adopt guidelines for the POU's submission of the IRPs, those guidelines should facilitate the Commission's role of reviewing the IRPs without attempting to prescribe the manner in which the resource planning should be done. The statute clearly contemplates the consideration of many different objectives and assessment of different technologies and resource types in the IRPs; it is incumbent upon the Commission to ensure that any guidelines developed to facilitate review of the IRPs be carefully crafted to acknowledge the flexibility contained in the legislation and avoid weighting or prioritizing any one factor.

Recognition of Existing Reporting and Processes

The guidelines should not be so prescriptive as to create additional and burdensome reporting requirements that provide no benefit – either directly or indirectly – to the utilities' ratepayer customers. To that end, NCPA urges the Commission to look to the existing reports and information that the POU provide to the Commission, the California Air Resources Board (CARB), the Western Area Power Administration (Western), and other regulatory agencies to ensure that the guidelines do not require duplicative reporting of data already provided or require the same information to be provided in a different format for purposes of the IRP.

For example, section 9621(b)(2) requires the POU plan to ensure the utility can meet the State's 50% RPS mandate by 2030. The POU are currently required under section 399.30(a)(1) to adopt and implement a renewable energy resources procurement plan to meet the minimum procurement quantity requirements mandated by the Legislature. This component of the POU's IRP is already provided to the Commission, as are notices to the Commission whenever the POU adopts a new or updated plan.¹⁴ The Commission's guidelines for IRP review should recognize this existing requirement relevant to the RPS procurement plans.

¹³ PUC section 9621(c)(2)(A).

¹⁴ *Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities*, April 2016, section 3205(a).

Likewise, sections 9621(c)(1)(A) and (B) require the POU IRP to address energy efficiency, demand response, and energy storage procurement requirements. To the extent that the Commission is already in possession of information regarding the POU's energy efficiency and demand response program information or energy storage procurement and compliance reports, as reported pursuant to the requirements of sections 9505 and 9506, respectively, any guidelines adopted by the Commission to facilitate review of the POU's IRPs should reflect these existing reporting requirements.

Similarly, POUs provide IRP-related data to other state and federal agencies. As noted during the April 18 Workshop, some POUs, such as Palo Alto, Redding, and Silicon Valley Power, already prepare and submit IRPs to Western every five years, with annual updates. To the extent that these submittals include elements of the IRP that are also mandated under section 9621, the Commission should ensure that the guidelines for reviewing the IRPs reflect this overlap. As well, each year, all POUs provide comprehensive GHG emission data to CARB.¹⁵ As CARB is tasked with accounting for statewide GHG emissions, the emissions reports are part of the Mandatory Reporting Regulations promulgated by that agency, and independently verified by CARB-authorized verifiers.

Any guidelines the Commission develops for the collection of information regarding the POU's IRPs should explicitly recognize and accept the completeness and format of data already submitted to sister agencies. The Guidelines should also allow for the greatest flexibility in submittal type, including the manner in which the requested information is provided to the Commission. As noted herein, some of the information required in the IRP will already be provided to the Commission as part of existing processes. Other information may already be publicly available as part of a POU's ratemaking deliberations, for example. As such, the Commission should consider employing a "checklist" or similar document with references to each of the required elements, and allow for submissions to include URL links to the reports or other documents that support or demonstrate those elements. Given the nature of the IRP and the quantity of information that will be contained therein, the Commission should seek to establish a streamlined approach to the submission and review process.

Local Governance Allows for Direct Customers Response

Any guidelines developed by the Commission should also acknowledge the differences between individual POU planning processes. POUs are uniquely situated to engage their customers in resource planning. The development of a IRP that reflects the needs and objectives of the communities in which the POUs are located will not only be part of the public process and open meeting rules required by law,¹⁶ but will also reflect the utility-specific processes employed at the local level. This may include events such as customer-focus groups, community-wide and neighborhood-specific meetings, and informational presentations during governing board meetings, to name a few. Outreach to stakeholders is done at the local level, and the types of

¹⁵ H&S code section 38530.

¹⁶ See Govt. Code section 54950, *et seq.*

electric generation resources, special programs, and technology types that a POU pursues are directly impacted by the demands and needs of the electric ratepayers and members of the community. The local governing boards of the POUs are directly accountable to the residents and businesses within their communities, and as such, the ultimate portfolio of electric generation services and programs adopted by the POU reflects the input of those constituents.

POU Emphasis on GHG Reductions

The POUs are fully engaged in helping the State meet its GHG reduction goals. Even before the adoption of Assembly Bill (AB) 32 (Nunez, Chapter 488, Statutes of 2006), POUs were mindful of the State's loading order¹⁷ and adopted policies and programs consistent with the loading order and the State's objectives. Each of these preferred resources contributes to GHG reductions. Indeed, reducing GHG emissions is an element of virtually all energy programs, from greater energy efficiency penetration, to energy conservation campaigns, and increased renewable energy procurement. Some POUs even adopted GHG reduction strategies and policies that were more stringent than those mandated by the state in response to input received from the residents and business that they serve.

However, while clearly a focal point of the State's overall climate plan and an essential part of meeting the climate goals articulated by the Governor,¹⁸ quantifying GHG reductions is not the sole means by which to measure a POU's – or the State's – ability to meet climate goals or comply with section 9621. Addressing GHG reductions is but one critical element of a POU's IRP and the Legislature neither precluded nor required POUs to use a single methodology for meeting the stated objective. Any guidelines developed by the Commission should acknowledge that local efforts to reach statewide GHG targets will vary depending on customer demographic, social-economic factors, and climate, and the overall program/resource mix. A single, narrowly-prescribed IRP methodology or formula will not work for all POUs; in order to most cost-effectively maximize GHG and overall emission reductions, POUs must be able to employ the full range of programs and measures contemplated in section 9621, as well as the panoply of other practices and activities that best advance the State goals while meeting the needs of the individual communities in which they are employed.

Additionally, it is important to acknowledge that meeting the electric sector's share of achieving the State's GHG reduction target does not require the allocation of utility-specific targets for GHG reductions. CARB will set statewide GHG emissions limits as part of the 2030 Scoping Plan Update. Those limits, originally adopted as part of the 2008 Scoping Plan, are designed to “achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions.”¹⁹ These emissions limits are also the basis for setting compliance obligations under the State's Cap-and-Trade program, of which POUs are compliance entities. Through the Cap-

¹⁷ California's loading order requires energy efficiency, demand response, renewables, and distributed generation to be considered to meet customer resource needs before fossil-fired generation. 2003 *Energy Action Plan*.

¹⁸ Governor Brown, Inaugural Address, January 5, 2015; <https://www.gov.ca.gov/news.php?id=18828>.

¹⁹ Health and Safety (H&S) Code section 38561.

and-Trade program, which requires the surrender of allowances equivalent to a covered entities' compliance obligation, California establishes a price for carbon. The success of the Cap-and-Trade program to achieve emissions reductions is one of the reasons why this program is being used as the basis for developing the State's plan for compliance with the Environmental Protection Agency (EPA) Clean Power Plan.²⁰

While a key element of the Cap-and-Trade program, binding targets relative to the IRP are neither necessary nor the best means by which to ensure the greatest GHG reductions from POU resource planning. Application of retail seller-specific, GHG reduction mandates runs counter to the rationale supporting the Cap-and-Trade program that allows compliance entities to achieve emissions reductions in the "maximum technologically feasible and cost-effective" manner. Binding LSE-specific targets could also impede the ability to maximize electric-sector wide reductions and constrain the resource options that retail sellers – like POUs – can pursue to maximize emissions reductions. Implementation of the EPA Clean Power Plan will also impact GHG reductions; challenges associated with attempts to merge the State's existing GHG reduction programs into a single compliance vehicle for the EPA's Clean Power Plan would be exacerbated if utilities – many of which would be compliance entities under the Clean Power Plan – were also subject to separate, binding GHG reduction targets as part of their IRP planning.

That is not to say, however, that the State does not have a way to measure the sector's contribution to statewide emission targets. The Scoping Plan Update is expected to include a forecast of post-2020 emissions for the electric sector reflecting all of the State's climate programs; this forecast should serve as an ample basis for measuring the *electricity sector's* share in achieving the economy-wide GHG reductions of 40% of 1990 levels by 2030 as mandated by the law.²¹

Transportation Electrification

Discussions regarding electrification of the transportation sector and their impacts on the electric sector go as far back as 2010 and the development of the State's Cap-and-Trade program.²² It has long been acknowledged that the positive developments in reducing the use of combustion fuels for transportation will have an impact on electricity consumption. While the result of these efforts is a net benefit to the State and its residents, the increases in electric sector emissions must be addressed. Section 9621(c)(1)(C) specifically calls on POUs to address transportation electrification. Similarly, Health & Safety Code section 44258.5(b) calls on CARB to facilitate the transition to greater transportation electrification.²³ Meeting this objective is also a priority

²⁰ California Air Resources Board, *Staff Proposal Addressing Clean Power Plan Compliance Through the Cap-and-Trade and Mandatory Greenhouse Gas Emissions Reporting Regulations*, February 2016; <http://www.arb.ca.gov/cc/capandtrade/meetings/022416/arb.cpp.feb2016.pdf>.

²¹ Sections 9621(b) and 454.52(a)(1).

²² California's Cap-and-Trade Program, Final Statement of Reasons, October 2011, pp. 568-570.

²³ Health & Safety Code § 44258.5(b) provides: The state board shall identify and adopt appropriate policies, rules, or regulations to remove regulatory disincentives preventing retail sellers and local publicly owned electric utilities from facilitating the achievement of greenhouse gas emission reductions in other sectors through increased

for the Commission, as demonstrated in the specific questions regarding the POU's current efforts on electric vehicle (EV) planning from Commissioner Scott during the April 18 workshop.

Achieving this goal, however, is another area that highlights the importance of recognizing the diversity of a POU's demographic. For example, transportation electrification extends beyond just greater access to electric vehicle charging and upgraded EV infrastructure, and includes such things as ground-up conversions, like that being undertaken at the Port of Oakland to enable a shift away from the use of gas and diesel generators when ships are docked. As noted in the responses to Commissioner Scott's inquires during the workshop, transportation electrification is treated differently within different communities based on need, economics, and location. Some POU's are uniquely positioned to offer greater EV charging access at public places and commercial locations, while other POU's are better suited to addressing and enabling greater transportation electrification through upgraded distribution systems and home-charging options. Each of these alternatives presents different benefits – and costs – to the POU's and their communities, yet allows the POU to direct the best-fit option to meet the needs of the community. Transportation electrification will continue to evolve in the coming years, and will impact the ongoing IRP process. The way in which the POU's address this evolution will vary, as transportation electrification will not be uniform across all POU's. Indeed, even the strategies and plans employed at this time will likely be modified, amended, and adapted to address the dynamic nature of the EV industry, as well as increased intrastate interaction in the development of a comprehensive EV infrastructure. The Commission's efforts to expand and encourage transportation electrification should include POU's in all levels of the planning process. Likewise, any guidelines the Commission develops on this aspect of IRP review should ensure recognition of the dynamic nature of transportation electrification as a component of resource planning.

IRPs Are *Plans*, and Plans Change

POU's are required to adopt an IRP and a process for updating the IRP on or before January 1, 2019. As noted during the April 18 Workshop, some POU's are already well underway in the development of their current IRP. The Commission should recognize the varying nature of the POU's' planning processes and refrain from attempting to impose arbitrary IRP plan and update deadlines. As long as all of the POU's subject to section 9621 adopt an IRP and plan for updating the IRP by January 1, 2019, it should not matter whether that occurs in 2016, 2017, or 2018. In reviewing updates, the guidelines, if adopted, should enable review to be limited to only those elements that have been revised or changed in the IRP updates, rather than require a resubmission of all data.

investments in transportation electrification. Policies to be considered shall include, but are not limited to, an allocation of greenhouse gas emissions allowances to retail sellers and local publicly owned electric utilities, or other regulatory mechanisms, to account for increased greenhouse gas emissions in the electric sector from transportation electrification.

Any guidelines the Commission develops to facilitate the IRP review process should also acknowledge the fundamental nature of a *plan*. The Commission’s IRP review guidelines must recognize and account for the evolving nature of resource planning, and the fact that these documents reflect comprehensive and well thought-out roadmaps to achieving the stated objectives. However, as a planning document, the IRP may – and often must – be modified, amended or otherwise varied in order to address real-time developments or changes within a POU’s service territory over time. External factors, such as unanticipated advances in some technologies or shifts in consumer preferences, may result in the need to modify certain programs and previously approved programs. Advances in transportation electrification, zero-net energy buildings, and micro-grid technologies can also have unplanned impacts on a long-term plan. Some areas of the IRP will be more definitive than others, and some may include more comprehensive long-term commitments than others. However, as long as each element of section 9621 is properly addressed, the evolving or developing nature of some aspects of the IRP should not be viewed as deficiencies or shortcomings.

IRPs Represent POU-Specific Plans

The IRPs will reflect the POU’s best plan for providing reliable and safe electricity services and products to residents and businesses, while complying with State mandates. The processes employed to reach approval of the final plan will further reflect various steps of input and deliberations, and will ultimately be approved by the governing body elected or appointed to oversee the POU. Those IRPs will necessarily reflect POU-specific preferences and the reasoned judgment of the governing body. Alternatives will have been weighed, and some rejected. Other alternatives may have presented viable options for achieving the same result, and different approaches may have been possible. In the end, however, the IRP adopted by the POU’s governing board reflects the governing body’s plan to best meet the POU’s statutory mandates and needs of its customers.

The statutory mandates can be met in a number of different ways, and resource planning is a unique and dynamic process, guided by the legal requirements and policy preferences of the local communities the POU’s serve. Decisions and planning strategies made by the POU’s should not be scrutinized or otherwise found lacking simply because they do not reflect the preferences of the reviewer or other third party interests. The Commission should ensure a process that does not allow “after the fact” assessment of POU decision making processes to weigh the merits of the various procurement decisions, including the types and kinds of technologies utilized to meet the statutory mandates. In developing guidelines to review the POU IRP filings, the Commission should ensure that it adheres closely to its direction under 9622, and that the review process does not allow for the opportunity to supplant the independent judgment of the local governing boards of the POU’s. It is imperative that the IRP be reviewed for compliance with the whole of section 9621, regardless of whether the reviewer agrees with the options adopted or prefers an equally viable alternative not included in the POU’s IRP. Personal preferences or third party agendas cannot be allowed to replace the independent and lawful decisions made by the POU’s and their governing boards.

Interested Party Involvement in IRP Planning is Best Served at the Local Level

POU IRPs will be adopted by the local governing boards of the POU in a public process. Before such approval, the POU follows the usual public notice and meeting requirements mandated by the California Government code, as well as the provisions of section 9621(d) that require the POU to notify the Commission directly. Only after the local governing board has approved their IRP is it submitted to the Commission to review the documents and identify any deficiencies. The Commission's process should not be treated as an opportunity for third parties to engage in a *de novo* review of the POU's IRP after it has been approved locally, especially when the statute included specific provisions for notice requirements prior to the POU's approval of the IRP. Instead, the process should be confined to the express statutory mandated for the *Commission* to review the IRP and make recommendations to address deficiencies, if warranted.

That is not to say that the Commission cannot take an active role in facilitating third party review of POU IRPs prior to their final approval by the local governing body. The IRPs will be submitted to the Commission after their approval by the local governing board, and it is likely that various elements of the program will already be employed by that time. Stakeholders with an interest in the POU IRP process should be encouraged to engage the POU prior to that time. Indeed, there is no public purpose served if a stakeholder only engages in this process after it has been finalized and submitted to the Commission for its review.

To facilitate this effort, each agency will be required to comply with the notice and posting requirements of section 9621(d), consistent with 399.30(f) already required for POU RPS procurement plans. Part of this process includes notifying the Commission when the POU will be deliberating on the IRP at the same time that the public notice is posted locally. Likewise, whenever materials regarding the IRP are distributed to the governing body for its consideration, the POU is required to make that information available to the public, and also provide the Commission with an electronic copy (or applicable URL) that can be posted on the Commission's website. In addition to posting these materials, the Commission can host a list serve which would provide links to public meeting notices regarding POU's IRP deliberations to interested stakeholders that may not be part of the POU's community. By doing so, the Commission can be assured that interested stakeholders are aware of the various deliberations at a time when they would be better able to comment on the potential outcome. Up-front participation from interested stakeholders, even those that are not local to the POU, would avoid potentially protracted and ill-informed second-guessing of procurement decisions and planning determinations after the IRP has been approved by the POU.

Conclusion

Comprehensive resource planning is not new to the POU. Neither is the emphasis on consideration of a broad spectrum of State policies and objectives, including reducing GHG emissions and expanding renewable procurement. The Commission's review of the POU IRPs under section 9622 should look at all facets of the document collectively, and should do so while considering the existing measures and programs, such as the Cap-and-Trade program and EPA

Clean Power Plan, that also play an integral role in the POU's overall planning processes. NCPA encourages the Commission to view its role vis-à-vis section 9622 and development of the guidelines in the context of the information that the POU's provided to the CEC during the April 18 Workshop, and not to presuppose that the POU's IRPs will be deficient. The Commission should not view this process as a means by which to influence or attempt to alter the POU's own planning processes or expressed community preferences for meeting the statutory mandates as they are reflected in the final IRP.

NCPA appreciates the opportunity to provide these comments to the Commission. Should the Commission decide to develop guidelines for the submission of the POU IRPs, NCPA looks forward to working with Commission staff and stakeholders on the development of a document that provides the Commission with the information it needs to complete its review while ensuring that the requirements are not unduly burdensome in format and avoid duplicating existing submissions. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com with any questions.

Dated this 19th day of May, 2016.

Respectfully submitted,



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