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NCPA Comments on RPS Proposed Amendments

Additional submitted attachment is included below.

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of: **Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities**	**Docket No. 16-RPS-03**

NORTHERN CALIFORNIA POWER AGENCY COMMENTS ON MODIFICATION OF REGULATIONS SPECIFYING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES

The Northern California Power Agency (NCPA)[1] offers these comments to the California Energy Commission (CEC or Commission) on the *Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities* (Proposed Amendments), dated May 7, 2020,.[2] and in response to staff discussion during the *Lead Commissioner Workshop/Hearing*, held on June 8, 2020 (June 8 Workshop).[3] NCPA also supports the comments submitted by its member agencies, the City of Redding and the City of Roseville, as well as the comments of the Joint Publicly Owned Utilities of which NCPA is a signatory.[4]

I. INTRODUCTION

NCPA appreciates the opportunity to provide these comments to the Commission on the Proposed Amendments. Throughout the pre-rulemaking process and up through the June 8 Workshop, staff has engaged with NCPA and other stakeholders in responding to inquiries and

[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] Section 3204(d)(2)(A) and (C): references to "(i) – (iii)" should be changed to "1. through 3." to be consistent with the numbering used in the regulation.

[3] NCPA supports the comments and issues addressed in the pre-workshop comments submitted by the California Municipal Utilities Association (CMUA) on June 1, 2020 (CMUA June 1 Comments) in response to the request for comments set forth in the *Notice of Proposed Action* (NOPA), dated May 7, 2020.

[4] The Joint POUs are comprised of California Municipal Utilities Association (CMUA), Modesto Irrigation District (MID), M-S-R Public Power Agency (M-S-R), Northern California Power Agency, Southern California Public Power Authority (SCPPA), Sacramento Municipal Utility District (SMUD), and Turlock Irrigation District (TID).

addressing concerns regarding the manner in which the POU PRS regulations would be amended. The Regulations must be amended to implement a number of statutory changes to the renewable portfolio standard (RPS) program that have been adopted since the Regulations were last updated. Those statutory changes reflect several changes, including the legislature's intent to increase the total amount of retail sales being served by renewable resources [PUC section 399.30), require at least 65% of RPS eligible procurement to come from long-term contracts or ownership agreements (PUC sections 399-13(b) and 399.30(d)(1)), as well as express provisions to advance the state's clean energy and climate goals without jeopardizing POU ratepayer liabilities and investments in long-term federal hydropower contracts (PUC section 399.30(k)), and electric generation resources developed to protect publicly owned utility customers and businesses from volatility in the provision of reliable and reasonably prices electricity (PUC section 399.33). In implementing the myriad legislative changes, NCPA urges the Commission to remain cognizant of the stated intent and purpose of the various provisions, and ensure that the regulatory provisions reflect the statute in a manner that gives a reasonable and commonsense interpretation that is consistent with the Legislature's purpose.[5]

II. SUMMARY OF RECOMMENDATIONS

In addition to positions and issues raised in the Joint POU Comments to which NCPA is a signatory, NCPA offers these comments to further elaborate on the following issues:

- The provisions of section 3204(b)(8) should apply to all future compliance periods;
- The Proposed Regulations add extra-statutory requirements to specific provisions tailored exclusively to address bond costs for certain POU natural gas-fired generation;
- The Commission should clarify that financial assignments of existing contracts or ownership agreements do not impact the grandfathered or long-term nature of those contracts or ownership agreements executed before June 1, 2010;
- Providing clarification regarding the location of electric products associated with Green Pricing Programs will avoid confusion and foster development of beneficial projects;

[5] Hubbard v. California Coastal Com. (2019) 38 Cal.App.5th 119, 135–136 [250 Cal.Rptr.3d 397, 409] (emphasis added), citing *Pasadena Metro Blue Line Construction Authority v. Pacific Bell Telephone Co.* (2006) 140 Cal.App.4th 658, 663–664, 44 Cal.Rptr.3d 556 (*Pasadena Metro Blue Line*) and *20th Century Ins. Co. v. Superior Court* (2001) 90 Cal.App.4th 1247, 1275, 109 Cal.Rptr.2d 611.

- The Final Statement of Reasons should provide guidance to the POUs regarding the submission of updated or revised RPS reports to reflect adopted amendments to the regulations; and,
- RPS enforcement provisions properly require the affected POUs to be provided a copy of the record.

III. COMMENTS ON PROPOSED AMENDMENTS

A. The Provisions of Section 3204(b)(8) Should Apply to All Future Compliance Periods (Section 3204(b)(8); Express Terms, p. 17)

The Proposed Amendments and Initial Statement of Reasons (ISOR) provide necessary changes to the RPS regulations to incorporate the provisions of PUC section 399.30(k). The provisions of 399.30(k) apply to very specific hydroelectric generation resources and contracts, which are defined in 399.30(k)(1). These Proposed Amendments, reflected in Sections 3204 (b)(7)-(8), and in Sections 3207(i)-(j) related to reporting, correctly capture the legislative intent and specific statutory provisions, with the exception of the sunset provision on the applicability of the exemption in section 3204 (b)(8).

To address this error, NCPA recommends 15-day changes that include the following corrections:

> (8) Notwithstanding section 3204 (a)(3)-(6), from January 1, 2019, through December 31, 2030, and any subsequent compliance periods determined by the Commission, a POU that receives more than 40 percent of its annual retail sales from large hydroelectric generation during a given year of a compliance period is not required to procure electricity products that exceed the lesser of the portion of the POU's retail sales unsatisfied by the POU's large hydroelectric generation, or the soft target for the relevant year of the compliance period.

As set forth in the Proposed Amendments, the public agencies would not be afforded the intended protections. Section 399.30(k) was primarily intended to provide public agencies entering into 30-year contract extensions with certainty regarding how those resources would be treated in the context of the RPS program moving forward; as proposed that certainty would end only five years into the extended term of the contract. The provisions of PUC section 399.30(k) were intended to provide the public agencies certainty regarding the treatment of these resources moving forward, and were specific to contracts that go through December 31, 2054.[6] As the ISOR notes, it is the Western Area Power Administration's 2025 Power Marketing Plan that

[6] Federal Register. Western Area Power Administration 2025 Power Marketing Plan. 82 Fed. Reg. 156 (August 15, 2017). (https://www.govinfo.gov/content/pkg/FR-2017-08-15/pdf/2017-17210.pdf)

outlines the provisions and terms for the extension for existing customers. The reason this is relevant, is because the referenced Power Marketing Plan specifically notes that contracts shall provide for WAPA to furnish electric service beginning January 1, 2025 and continuing through December 31, 2054.[7] Sunsetting the applicability of section 399.30(k) in 2030 would render the provision moot for some of the anticipated extensions. For that reason, sections 3204(b)(8) and 3207(j) should be modified to reflect the applicability of the provision from January 1, 2019 through December 31, 2030, *and to any subsequent compliance periods determined by the Commission*. Without this clarification, the Proposed Amendment would have the result of only allowing the utilization of this provision through 2030, when the contract extensions at issue would continue for nearly another 25 years.

NCPA recognizes that an initial reading of the statutory text could result in some ambiguity. However, it is for that reason that the Commission must apply rules of statutory interpretation that avoid a nonsensical result. While it is important to begin by looking at the plain meaning of the language, the courts require additional assessment when that plain meaning presents a possible contradiction with the purpose of the statute, as it does here.[8] The courts have consistently held:

> [the] fundamental rule is to ascertain the Legislature's intent in order to give effect to the purpose of the law. [*Citation*] We first examine the words of the statute and try to give effect to the usual, ordinary import of the language while not rendering any language surplusage. These words must be construed in context and in light of the statute's obvious nature and purpose, *and must be given a reasonable and commonsense interpretation that is consistent with the Legislature's apparent purpose and intention*. [Citation] Our interpretation should be practical, not technical, and should also result in wise policy, not mischief or absurdity. [Citation] We do not interpret statutes in isolation. Instead, we read every statute with reference to the entire scheme of law of which it is a part in order to harmonize the whole.[9]

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[7] *Id.*, p. 38,683.

[8] "But the 'plain meaning' rule does not prohibit a court from determining whether the literal meaning of a statute comports with its purpose or whether such a construction of one provision is consistent with other provisions of the statute. The meaning of a statute may not be determined from a single word or sentence; the words must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible. [Citation.] Literal construction should not prevail if it is contrary to the legislative intent apparent in the statute. The intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act." (*Ibid.*)" (Levin v. Winston-Levin (Cal. Ct. App., Sept. 13, 2019, No. G056353) 2019 WL 4386025, at *5)

[9] Hubbard v. California Coastal Com. (2019) 38 Cal.App.5th 119, 135–136 [250 Cal.Rptr.3d 397, 409] (emphasis added), citing *Pasadena Metro Blue Line Construction Authority v. Pacific Bell Telephone Co.* (2006) 140 Cal.App.4th 658, 663–664, 44 Cal.Rptr.3d 556 (*Pasadena Metro Blue Line*) and *20th Century Ins. Co. v. Superior Court* (2001) 90 Cal.App.4th 1247, 1275, 109 Cal.Rptr.2d 611.

In the instant case, staff has proposed that the exception would not be available after Compliance Period 6; this interpretation is based on the fact that PUC section 399.30(k)(2) references "a year within a compliance period set forth in subdivision (b)." Inclusion of this direction in 399.30(c), rather than 399.30(b), which specifically references compliance periods is not consistent with the similar provisions applicable to retail sellers, and appears to be in error. In Section 399.15, which establishes the RPS compliance periods for retail sellers, subsection (b) sets forth the individual compliance periods for January 1, 2011 (Compliance Period 1), through December 31, 2030 (Compliance Period 6), **but also** includes the subsequently adopted language regarding subsequent compliance periods, using nearly identical language as what is used in section 399.30(c). Specifically, section 399.15(b)(2)(B) provides "The commission shall establish appropriate three-year compliance periods for all subsequent years that require retail sellers to procure not less than 60 percent of retail sales of electricity products from eligible renewable energy resources." Given that the provisions of section 399.30(k) were drafted to specifically address the long-term implications of the increasing RPS mandate relative to the long-term commitments that the POUs have in these federal large hydroelectric generation projects, and the fact that the compliance periods beyond 2030 are included in the same subsection as the delineated compliance periods for retail sellers, the provisions of section 399.30(k) should apply to all years beginning on January 1, 2019, through the end of Compliance Period 6 in 2030, **and** to all subsequent compliance periods established by the Commission. Such an interpretation is consistent with the rules of statutory interpretation as noted above.

Reviewing the statutory provisions in light of the statute's obvious nature and purpose, and applying a reasonable and commonsense interpretation that is consistent with that intent and purpose, the Proposed Amendments to Sections 3204(b)(8) and 3207(j) should be modified to reflect the applicability of the provision from January 1, 2019 through December 31, 2030, and to any subsequent compliance periods as determined by the Commission in the regulations.

In support of the Proposed Amendments, the ISOR argues that the legislature may have intended to alter the treatment of these large hydro resources moving forward, and therefore intended the applicability of section 399.30(k) to sunset in 2030. This position, however, runs contrary to the objective of the legislation, which was to address the treatment of long-term contracts between public agencies and the Federal Government, and to provide these public agencies with certainty regarding the RPS program treatment of the resources before making a commitment of up to 30 years. As a matter of practice, although the RPS program has been

refined over time, the fundamental requirements have remained in place, and additional elements have been explicitly added. Since its inception, the RPS program has been refined to address existing investments in various renewable energy resources, and existing financial commitments. As such, it is reasonable to conclude that the legislature would not craft a specific provision that applies only to a very limited group of contracts without intending that the certainty they were providing the contracting parties would extent through the term of the agreements. These resources are a critical part of the portfolio of resources that will help the state meet its low carbon goals and the ability of the public agencies to continue to utilize these renewable energy resources should not be compromised.

B. The Proposed Regulations Add Extra-Statutory Requirements to Specific Provisions Tailored Exclusively to Address Bond Costs for Certain POU Natural Gas-Fired Generation (Section 3204(b)(11); Express Terms, p. 21)

Section 3204(b)(11) implements PUC section 399.33. However, the Proposed Amendments create an extra-statutory obligation that is not consistent with the provisions of PUC section 399.33 and significantly impede the ability of the POU to utilize the full benefit of this provision. To address this error, NCPA recommends 15-day changes as set forth below:

> (B) The qualifying gas-fired power plant must be operating at or below a 20 percent capacity factor on an annual average basis during ~~each~~ any year of a ~~the~~ compliance period in order to reduce the RPS procurement target for the compliance period.

The premise behind SB 1110 was to "protect taxpayers from the construction debt of certain power plants built in response to the energy crisis." In his Fact Sheet describing SB 1110, Senator Bradford noted that some POUs – like Roseville and Redding – built natural gas plants to secure their own power supply, which are typically financed through bonds that are paid out on a 30- to 40-year timeline, that "must be paid regardless of whether the plant is operational."[10] Acknowledging that growth in renewable energy will make it "more expensive to run the plant than to close it," and stranding the POU with "unusable power plant and no way to pay off its bond debt," SB 1110 was crafted as a solution to "allow POUs to modestly adjust where they generate power in order to continue using certain publicly-owned natural gas plants until their construction debt has been repaid." Doing so would protect the public agency bond holders, as well as retain jobs in the local communities. The Senator's focus on the bonds and financing is key, as investments in these resources during the energy crisis were significant

[10] See Attachment A, Fact Sheet, Senate Bill 1110 (Stats. 2018, ch. 605), Senator Steven Bradford, 2018.

commitments for the POUs and came with strict monetary restrictions and oversight. Indeed, each of the POUs eligible for the very limited exception outlined in SB 1110 is bound by contractual rate covenants requiring the cities to ensure that their rates at all time will cover anywhere from 100% to 110% of the debt service for the bonds, irrespective of whether those resources can actually be utilized to their fullest potential by the cities.

During the June 8 Workshop, Staff requested further comments on how best to reconcile the structure of the procurement target exemptions as a compliance period adjustment with annually evaluated criteria.[11] NCPA believes that the language in PUC section 399.33(a)(2), which clearly states that the exception applies when "a powerplant that both meets the requirements of subdivision (a) and is operating below 20 percent of its total capacity on an average **annual basis during a given compliance period**" provides the necessary basis to reconcile Staff's concerns. The Proposed Amendment to implement the statutory provision completely ignore the statute's reference to the yearly review of the capacity factor and would require the POU meet this threshold **throughout a given compliance period**. (Section 3204(b)(11)(B)) However, "During a given compliance period" is not the same as "throughout a given compliance period." This additional requirement is inconsistent with the plain meaning of the legislation and imposes a restriction that negates and ignores the specific language in PUC section 399.33(a)(2), for example. The ISOR notes that "capacity factor is typically calculated on an annual basis, rather than over a multiyear period, and the statue repeatedly refers to 'annual average' or 'average annual basis', suggesting that the 20 percent capacity factor was intended to be an annual evaluation rather than evaluated over a compliance period." However, after making this correct observation, the ISOR makes the illogical connection that since all compliance periods are multi-year, the "it is necessary that the power plant operate below 20 percent capacity each year" of a compliance period for the condition to be satisfied." (ISOR, p. 35) Had the legislature intended the 20% threshold to apply for the duration of the compliance period, the statute would have stated that the threshold must be met "throughout a compliance the period," rather than "during a given compliance period."

Further, the enabling legislation goes on to state that the POU can "adjust its renewable energy procurement targets by an amount equal to the difference between the actual generation from the powerplant and the amount of generation that the powerplant would have produced if it

[11] June 8, 2020 Workshop Transcript, p. 20, *ll*. 14-17.

had operated at 20 percent of its total capacity." (PUC section 399.33(b)) Therefore, the adjustment must be on an annual basis in order to avoid rendering this provision meaningless, as the provision calls for the use of the *actual generation.*

The ISOR states that "In addition, this exemption is structured as a procurement target reduction that is actually calculated on a compliance period basis, rather than a soft target reduction calculated on annual basis. This suggests that while the average 20 percent capacity factor is assessed annually, eligibility for and the calculation of the procurement target reduction occurs on a compliance period basis, so staff determined it is necessary that the power plant operate below a 20 percent capacity each year for this condition to be satisfied on a compliance period basis. This addition is necessary for clarity." (ISOR, p. 35) There is no statutory support for this conclusion. There is no language that supports requiring the annual threshold to be met each and every year of the compliance period. Nor is this application consistent with any other optional compliance measures. For example, provisions allowing a delay of timely compliance under section 3206(a)(2) do not require that a lack of transmission capacity, for example, must exist for each year of the compliance period. Likewise, it does not make sense to interpret that the capacity factor requirement would have to occur each year during the compliance period. Indeed, there are many similarities between the provisions, except that as it pertains to the natural gas plants at issue, the legislature has already defined the rules applicable to exercising the provision, including outlining the measures that the POU must undertake to mitigate the impacts.

Additionally, as noted above, the statutory text makes clear that the "review period" is annual, based on the *annual* capacity factor, not a multi-year period. Concluding that because the exemption is determined on a compliance period basis means that the threshold must be met each and every year of that compliance period ignores the plain language in the statute that speaks to the *annual average on a yearly basis*. There is nothing in the provision that speaks to averaging the capacity factor over a compliance period. The statute specifically notes that it is the operation of the plant below that threshold during any year "that may result in the loss of employment of a powerplant employee who receives a prevailing wage." Therefore, it is clearly the intent of the legislature to create an exemption that would avoid that very risk. Operating below the 20% capacity factor *in any year* would also jeopardize the bond payments and result in increased costs for POU customers.

C. The Commission Should Clarify that Financial Assignments do not impact the Grandfathered or Long-Term Nature of Contracts or Ownership Agreements Executed before June 1, 2010. (Section 3202(a)(2)(B); Express Terms p. 6)

Section 3202 (a)(2)(B) correctly characterizes the treatment of amendments or modifications to contracts or ownership agreements executed before June 1, 2010. Unless changes to those contracts "increase nameplate capacity or expected quantities of annual generation, increase the term of the contract except as provided in section 3202 (a)(2)(C), or substitute a different eligible renewable energy resource," they have no impact on the long-term nature of original agreement. However, NCPA believes that the regulation would benefit from further clarification that expressly recognizes that any other contract amendments or modifications, including assignments of the financial obligations that do not otherwise alter the POU receiving the renewable resources or the renewable generation that is the subject of the original contract or ownership agreement, do no impact the PCC 0 or long-term nature of the initial contract or ownership agreement executed before June 1, 2010.

One way that the Commission can further this clarification is to include "assignments" in the text of section 3202(a)(2)(B), as follows:

> (B) If contract amendments**, assignments,** or modifications after June 1, 2010, increase nameplate capacity or expected quantities of annual generation, increase the term of the contract except as provided in 3202 (a)(2)(C), or substitute a different eligible renewable energy resource, only the MWhs or resources procured prior to June 1, 2010, shall count in full toward the RPS procurement targets. **Those contract amendments, assignments, or modifications that do not otherwise alter (i) the POU receiving the renewable resources or (ii) the renewable generation source, do not alter the eligibility under 3202(a)(2)(A), or the classification of those agreements as long-term under 3204(d).**

This proposed change is consistent with the language used in section 3204(d) regarding the long-term procurement requirements. NCPA also recommends that the Commission clarify this distinction in the Final Statement of Reasons (FSOR) with language that clearly notes financial-only assignments do not impact the underlying nature of these contracts and ownership agreements.

D. Clarification regarding the location of electric products Associated with Green Pricing Programs will avoid confusion and foster development of beneficial projects. (Section 3204(b)(9)(B)4.i; Express Terms, p. 19)

In their June 1, 2020 Pre-Workshop comments, CMUA sought clarification regarding some of the language related to section 3204(b)(9)(B)4.1. This section of the regulation addresses the calculation of retail sales, and provides that a "POU may exclude for its retail sales

the electricity products credited to a participating customer in a voluntary green pricing program or shared renewable generation program" if certain requirements are met. One such requirement is that the POU "sought to procure the electricity products from RPS-certified facilities that are located in a California balancing authority," and further, "for POUs that meet the criteria of section 3204(b)(4), the *POUs must seek to procure* the electricity products from RPS-certified facilities that are located in the balancing authority in which the POU is located." (emphasis added) CMUA's pre-workshop comments sought clarification regarding the meaning of "must seek to procure" in the context of Section 3204(b)(9)(B)4.i and the ability for POUs subject to this provision to procure resources outside their balancing authority. The ISOR notes that significant variation in POU service territories would make a requirement for procurement within their own service territory more restrictive than the standard applied to the electrical corporations. The ISOR goes on to note that the requirement that POUs sought to procure the electricity products from RPS-certified facilities that are "located in a California balancing authority" was the best implementation of "reasonable proximity" requirement, and goes on to note that "this definition does not prevent a POU from procuring from resources outside of a California balancing authority if the POU was unable to procurement, to the extent possible, within that location." (ISOR, p. 32)

CMUA also noted that the ISOR applies a different explanation for 3204(B)(9)(V)4.i. In this discussion, the ISOR notes that these POUs are required "to seek to procure resources located within the balancing authority area in which the POU is located," but does not clarify that the same rationale applies to allowing these POUs to seek resources outside of their balancing authority as the for POUs located within a California BA. During the June 8 workshop, Staff clarified that it was the intent to treat them the same, and that the POUs subject to 3204(b)(4) are not prevented from procurement resources outside of their balancing authority. Specifically, Staff noted that "the intent of the express terms is to allow these POUs to procure outside their balancing authority are if the POU is unable to procurement to the extent possible within that area the same standard that's applied for the paralleled requirement for POUs that are part of a California balancing authority area," and that this clarification would be addressed in the FSOR;[12] NCPA appreciates these clarifications and looks forward to seeing them reflected in the FSOR.

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[12] June 8, 2020 Workshop Transcript, p. 19, *ll.* 1-12.

E. The Final Statement of Reasons Should Provide Guidance to the POUs regarding the submission of updated or revised RPS Reports to Reflect Adopted Amendments to the Regulations.

There are various provisions in the Proposed Amendments that could impact RPS compliance reports that the POUs have already submitted to the Commission. Since POUs may need to update or resubmit those reports to specifically address the amendments that come out of this rulemaking, the Commission should provide a procedure for re-submitting amended compliance reports necessary to reflect any of the regulatory changes adopted in these amendments that impact past year's procurement and reporting. This clarification should be set forth in the FSOR.

F. RPS Enforcement Provisions Properly Require the Affected POUs to be Provided a Copy of the Record. (Section 1240(h); Express Terms pp. 57-58)

The revisions to Section 1240(h) should be adopted; in the event that a Notice of Violation is issued, it is appropriate for the affected POU to have a full copy of the record that is being forwarded to California Air Resources Board.

III. CONCLUSION

For the reasons set forth herein, NCPA requests that 15-day changes be issued reflecting the necessary corrections and clarifications addressed herein. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com with any questions.

Respectfully submitted, this 22nd day of June 2020.

Respectfully submitted,

C. Susie Berlin, Esq.
LAW OFFICES OF SUSIE BERLIN

Attorneys for the:
Northern California Power Agency

ATTACHMENT A

SB 1110 – Safeguarding Public Utility Ratepayers from Bond Debt

SUMMARY

As California leads the nation toward a future driven by renewable energy, individual customers must be protected from extraordinary cost-shifts. By allowing public utilities to modestly adjust the sources of their electricity, SB 1110 will protect taxpayers from the construction debt of certain power plants built in response to the energy crisis.

BACKGROUND

After California's energy crisis, many publically-owned utilities (POUs) built natural gas plants to secure their own power supply. When a POU builds such a plant, it is typically financed through bonds that are paid out on a 30- to 40-year timeline. The bonds must be paid regardless of whether the plant is operational.

For a few POUs, growth in renewable energy will drive the actual use of these public power plants down to a level where it is more expensive to run the plant than to close it. If that facility shuts down, the POU may be stranded with an unusable power plant and no way to pay off its bond debt. Because it is a public agency, that obligation falls on taxpayers — the local residents who buy power from the POU. In addition to that added cost in individual rates, shutting down a plant also eliminates local, prevailing-wage jobs at that site.

Current estimates identify more than $300 million in bond debt across the State that may be charged to taxpayers without SB 1110.

SOLUTION

SB 1110 would allow POUs to modestly adjust where they generate power in order to continue using certain publicly-owned natural gas plants until their construction debt has been repaid. At most, POUs can use this legislation to run a plant at only 20 percent of its total capacity.

This adjustment can only occur if the plant meets California's strict emissions standards, if it was built in response to the energy crisis, if it is not located in one of our most disadvantaged communities, if the utility pays prevailing wages at the site, and if it has outstanding debt from that plant's construction. As soon as the bonds for a plant have been paid in full, the POU may no longer modify power generation using SB 1110.

The California Energy Commission must review and certify each case before allowing a POU to make adjustments.

SUPPORT

Northern California Power Agency (sponsor)
California Municipal Utilities Association
City of Roseville
Redding Electric Utility
Silicon Valley Power

OPPOSITION

None on file

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