

**ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA**

<b>DOCKET</b>	
<b>06-OIR-1</b>	
<b>DATE</b>	AUG 27 2007
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In the Matter of: )

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)  
Proposed Adoption of Regulations Establishing a )  
Greenhouse Gases Emission Performance Standard )  
For Baseload Generation of Local Publicly Owned )  
Electric Utilities. )

Docket 06-OIR-1

**COMMENTS OF THE  
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION TO THE SECOND  
PROPOSED 15-DAY CHANGES TO REGULATIONS ESTABLISHING AND  
IMPLEMENTING A GREENHOUSE GASES EMISSION PERFORMANCE  
STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES**

August 27, 2007

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## **1 Introduction**

The California Municipal Utilities Association ("CMUA") hereby files these written Comments in response to the express terms of the second *Proposed 15-Day Changes to Regulations Establishing and Implementing a Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities* ("Second 15 Day Language") submitted by the California Energy Commission ("CEC" or "Commission") in Docket No. 06-OIR-1 on August 10, 2007.

CMUA acknowledges and appreciates the efforts of the Commission's Electricity Committee to review the *Comments of the California Municipal Utilities Association on the Office of Administrative Law's Disapproval of the Proposed Regulations Establishing a Greenhouse Gases Emission Performance Standard* ("July 30 Comments") filed in this Docket on July 30, 2007, and to add them to the record in this Docket. All arguments in CMUA's July 30 Comments are incorporated by reference herein. These present Comments are offered to identify and clarify certain issues in the Second 15-Day Language that are relevant to local publicly-owned electric utilities ("POUs").

## **2 Comments on the Express Terms of the Second 15-Day Language**

### **2.1 Sections 2900 and 2901(j)(3)**

CMUA supports the Commission's reasoning and language for Sections 2900 and 2901(j)(3) as proposed in the Second 15-Day Language.

### **2.2 Section 2901(j)(4)(B)**

CMUA is less enamored with the spartan revision proposal to Section 2901(j)(4)(B) than with the Electricity Committee's reasoning in the *Explanation of Changes*. The reasoning, in pertinent part, states that "SB 1368 is not intended to shut down currently operating power plants or lead to their deterioration; its focus is ensuring that substantial investments are not made that would lead to further costs when AB 32, or a similar program establishing a greenhouse gases emissions limit, is implemented." (*Explanation of Changes* at 5)

It is on this latter point that CMUA believes the legislative intent of SB 1368 is more expansive than the new 15-day language suggests. CMUA's July 30 Comments argue that SB 1368 seeks to "restrict[ ] current investments that *increase the potential* for: (1) future reliability problems; or (2) financial risk for future-pollution control equipment." (July 30 Comments at 12, emphasis in original) On the flip side, the July 30 Comments pointed out that some investments involving capacity increases on existing power plants may actually *decrease the potential* for future reliability problems and/or future pollution control costs. (July 30 Comments at 7-12)

These activities should be promoted, and at the very least, not inhibited. For example, some investments that are not necessarily "maintenance" actions may be in complete harmony with the greenhouse gas emission reduction requirements of AB 32 and the legislative intent of SB 1368. CMUA has concerns that future Commissions with less institutional knowledge of this Docket may interpret "routine maintenance" in a way that inhibits AB 32 compliance by POUs.

CMUA recognizes that these investments may be brought to the Commission through the case-by-case review in Sections 2912 and 2913. However, CMUA offers a further clarification to the regulatory language for the purpose of guiding POUs in their future investments and facilitating the achievement of the maximum technologically feasible and cost-effective greenhouse gas emission reductions in accordance with AB 32.

(4) Any investment in an existing, non-deemed compliant powerplant owned in whole or part by a local publicly owned electric utility that: . . . (B) results in an increase of ~~greater than 10%~~ in the rated capacity of the powerplant, not including routine maintenance or improvements designed and intended to reduce future pollution-control costs, or . . .

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### 3 Conclusion

CMUA respectfully requests the Commission to consider CMUA's Comments and incorporate CMUA's proposed non-substantive alternative language identified above that accurately reflects the legislative intent of SB 1368.

Dated: August 27, 2007      Respectfully submitted,



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