

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



In the Matter of:

Rulemaking to Consider Modification of
Regulations Establishing a Greenhouse
Gases Emission Performance Standard For
Baseload Generation of Local Publicly
Owned Electric Utilities

Docket No. 12-OIR-1

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
SAN JUAN PARTICIPANTS AND CITY OF ANAHEIM
COMMENT ON PROPOSED FINAL CONCLUSIONS**

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. THE TERMS IN THE PROPOSED NEW PROVISION ABOUT POSTING NOTICES OF PUBLIC MEETINGS SHOULD BE RE-EXAMINED.....	3
A. Replace the Word “Expenditure” With “Investment.”.....	5
B. Clarify Who Is Making the Investment.	5
C. If the Threshold for Triggering the Posting Requirement Applies to a Combined Investment by the Participants in a Facility Rather than an Individual Investment by a POU, Reconsider the \$2.5 Million Threshold.....	6
D. Narrow the Term “Environmental Regulatory Requirements.”	7
III. REQUIRING A NEW ANNUAL REPORT WOULD BE UNDULY BURDENSOME AND UNNECESSARY.	8
IV. IF THE ENERGY COMMISSION CONTINUES TO BELIEVE THAT IT SHOULD REQUIRE A NEW ANNUAL REPORT, SEVERAL REVISIONS SHOULD BE MADE TO THE NEW REPORTING PROVISION.....	11
A. The Proposed Requirement for a New Annual Report Should Be Revised to Reflect the Revisions Proposed by the SCPPA San Juan Participants and Anaheim to Subsections 2908(a)(1) and (2).....	11
B. The Identity of the POU that Is Subject to the Annual Reporting Requirement Should Be Clarified.	12
C. The Deadline for Filing the New Annual Report Should Be Clarified.	12
V. THE EXEMPTION FROM THE ANNUAL REPORTING REQUIREMENT FOR POUS THAT ENTER INTO A BINDING DIVESTMENT AGREEMENT SHOULD BE CLARIFIED.....	13
VI. THE TERM “COVERED PROCUREMENT” SHOULD BE REPLACED THROUGHOUT SUBSECTION 2913(a).	15
VII. CONCLUSION.	15

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I. INTRODUCTION.

The Southern California Public Power Authority (“SCPPA”)¹ participants in the San Juan Project (“SCPPA San Juan Participants”)² and the City of Anaheim (“Anaheim”)³ appreciate this opportunity to comment on topics raised in the Proposed Final Conclusions released by the Lead Commissioner for this rulemaking proceeding on April 5, 2013.

The SCPPA San Juan Participants and Anaheim strongly support many of the conclusions that are reached in the Proposed Final Conclusions. The SCPPA San Juan Participants and Anaheim applaud the conclusion that this proceeding should be closed without developing additional criteria for identifying covered procurements or further defining the

¹ SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Colton, Glendale, and Imperial Irrigation District.

² SCPPA holds a 41.8 percent interest in San Juan Project Unit 3. The SCPPA members which participate in San Juan Generating Station (“San Juan”) Unit 3 through SCPPA are the Imperial Irrigation District and the cities of Azusa, Banning, Colton, and Glendale.

³ Anaheim holds a 10.04 percent ownership interest in San Juan Unit 4.

phrases “designed and intended to extend the life” or “routine maintenance.”⁴ Likewise, the SCPPA San Juan Participants and Anaheim applaud the clarification that investments that are undertaken to achieve environmental upgrades or to comply with legal mandates are not automatically classified as “covered procurements.”⁵ Each investment must be analyzed independently to determine whether it triggers one of the three attributes of a covered procurement under the EPS Regulation.⁶

The SCPPA San Juan Participants and Anaheim strongly support the conclusion that the Emission Performance Standard (“EPS”) as currently set forth in the Energy Commission’s EPS Regulation⁷ should not be revised in this proceeding.⁸ Also, the SCPPA San Juan Participants and Anaheim support the conclusion to replace the term “covered procurement” with the term “investments” in section 2913 of the EPS Regulation regarding petitions for exemption from the EPS Regulation.⁹

However, while the SCPPA San Juan Participants and Anaheim appreciate the attention that the Lead Commissioner and the Energy Commission staff have clearly given to the comments of publicly owned utilities (“POUs”) in this proceeding, further consideration should be given to the revisions of section 2908 that are proposed in the Proposed Final Conclusions regarding public notice and posting requirements. The Proposed Final Conclusions would expand the existing section 2908 notice requirement to require notification of a public meeting of a POU’s governing body to consider “expenditures over \$2.5 million to meet environmental regulatory requirements of non-EPS compliant facilities.” For the reasons discussed below, the

⁴ Proposed Final Conclusions, p. 14.

⁵ *Ibid*, pp. 15-16.

⁶ *Ibid*.

⁷ 20 California Code of Regulations (“CCR”) §§2900-2913.

⁸ Proposed Final Conclusions, p. 21.

⁹ *Ibid*, p. 22.

SCPPA San Juan Participants and Anaheim urge reexamination of some of the key terms that are included in the phrase that would be added to section 2908 to expand the notice requirement.

Additionally, the SCPPA San Juan Participants and Anaheim urge the Energy Commission to reconsider the conclusion to add a new subsection 2908(b) to the EPS Regulation that would require POUs to file an entirely new annual report identifying “all investments of \$2.5 million or more that [a POU] anticipates making in the subsequent 12 months on non-EPS compliant baseload facilities to comply with environmental regulatory requirements.”¹⁰ The objective of requiring an entirely new annual report could be more readily accomplished while imposing much less of a burden on POUs by modestly expanding the existing section 2908 notice requirement as previously proposed by the SCPPA San Juan Participants and Anaheim in this proceeding. If, upon reconsideration, the Energy Commission is still determined to require the new annual report, the SCPPA San Juan Participants and Anaheim recommend several revisions to the new subsection 2908(b) that would require the report and to the associated new subsection 2908(c).

Lastly, the SCPPA San Juan Participants and Anaheim recommend that the replacement of the words “covered procurements” with investments extend to all four places in which the words “covered procurements” appear in subsection 2913(a).

II. THE TERMS IN THE PROPOSED NEW PROVISION ABOUT POSTING NOTICES OF PUBLIC MEETINGS SHOULD BE RE-EXAMINED.

The Proposed Final Conclusions would reorganize section 2908 to create new subsections 2908(a)(1) and (2) as follows, with the underlined passages being new language that would be inserted into subsections 2908(a)(1) and (2) by the Proposed Final Conclusions to supplement language that is in the existing section 2908:

¹⁰ Proposed Final Conclusions, p. 12.

(1) At any posting of the notice of a public meeting to consider a covered procurement or any expenditure over \$2.5 million to meet environmental regulatory requirements at a non-EPS compliant baseload facility, the local publicly owned electric utility shall notify the Commission and all persons on the Commission’s most current Climate Change service list of the date, time and location of the meeting so the Commission may post the information on its website.

(2) Upon distribution to its governing body of information related to a covered procurement’s compliance with the EPS or any expenditure over \$2.5 million to meet environmental regulatory requirements at a non-EPS compliant baseload facility, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make such information available to the public and shall provide the Commission and all persons on the Commission’s most current Climate Change service list with an electronic copy of the document for posting on the Commission’s website. This requirement is satisfied if the local publicly owned electric utility provides the Commission and all persons on the Commission’s most current Climate Change service list with the URL that links to the documents or information regarding other manners of access to the documents.¹¹

The proposed new phrase about “any expenditure over \$2.5 million to meet environmental regulatory requirements at a non-EPS compliant baseload facility” parallels a “compromise” phrase that was proposed by the M-S-R Public Power Agency (“M-S-R”), the SCPPA San Juan Participants, Anaheim, and the Los Angeles Department of Water and Power (“LADWP”) (collectively “POU Parties”) in their February 15, 2013 comment in this proceeding. The POU Parties suggested that the section 2908 notice provision be expanded to apply to “an ownership investment over \$5.0 million to meet environmental or regulatory requirements specifically related to emission controls at a non-EPS compliant baseload facility.”¹²

¹¹ Proposed Conclusions, p. 11.

¹² M-S-R, SCPPA San Juan Participants, Anaheim, and LADWP comments on January 29, 2013 Workshop (“POU Parties’ Comment”) pp. 5-6.

However, the phase that is proposed in the Proposed Final Conclusions contains three terms that are quite different from terms in the POU Parties' compromise provision. The SCPPA San Juan Participants and Anaheim urge the Energy Commission to reconsider those three terms.

A. Replace the Word “Expenditure” With “Investment.”

The new phase that would be inserted into subsections 2908(a)(1) and (2) refers to “any expenditure,” while the compromise proposed by the POU Parties referred to “ownership investment.” The SCPPA San Juan Participants and Anaheim perceive the Lead Commissioner and the Energy Commission staff as desiring to use a term that is broader than “ownership investment,” which is very close to “new ownership investment,” a term which is defined in section 2901(j) of the EPS Regulation.

However, the term “expenditure” is overly broad. For example, it reaches expensed items such as fuel procurement without any limitation to the proper focus of the EPS Regulation, capital investments. Additionally, using the term “expenditure” would be inconsistent with the EPS Regulation, which consistently uses the term “investment” rather than the broader term “expenditure.”

The SCPPA San Juan Participants and Anaheim recommend that, in lieu of the term, “expenditure,” the Energy Commission use the term “investment” in subsections 2908(a)(1) and (2). The term “investment” connotes if not denotes capital investments to the exclusion of expensed items. Additionally, using the word “investment” would be consistent with terminology that is used in the rest of the EPS Regulation.

B. Clarify Who Is Making the Investment.

The new phrase that would be inserted into subsections 2908(a)(1) and (2) is unclear about whether the \$2.5 million threshold would apply to an individual investment by an POU such as SCPPA or Anaheim that has an ownership share in a non-EPS compliant baseload

facility or to a combined investment by all project participants. SCPPA holds a 41.8 percent interest in San Juan Project Unit, and Anaheim holds a 10.04 percent ownership interest in San Juan Unit 4.

Insofar as the requirement to post a notice of a public meeting is clearly intended to apply to a meeting of the governing board of a POU that has an ownership interest in a non-EPS compliant facility, it appears that subsections 2908(a)(1) and (2) should be expanded to clarify that the threshold would apply to an investment by a POU individually. This could be accomplished by inserting the words “by a locally owned public utility” after “\$2.5 million” so that the posting requirement would apply when the governing board of a POU will meet to consider “any investment over \$2.5 million by the locally owned public utility....” Thus, the posting requirement would be triggered when a POU’s share of the investment in a non-EPS compliant baseload facility exceeds \$2.5 million, not when the total investment of all participants combined exceeds \$2.5 million.

C. If the Threshold for Triggering the Posting Requirement Applies to a Combined Investment by the Participants in a Facility Rather than an Individual Investment by a POU, Reconsider the \$2.5 Million Threshold.

If the threshold for triggering the posting requirement is intended to apply to the combined investment by participants in a facility rather than to the individual investment of a POU that participates in the facility, the SCPPA San Juan Participants and Anaheim urge the Energy Commission to reconsider the threshold of \$2.5 million for triggering the section 2908 notice requirement. As explained in the POU Parties’ Comments, for the last five years the annual capital budgets for the only non-EPS compliant baseload facility in which SCPPA San Juan Participants and Anaheim have an ownership interest, San Juan, have averaged \$90.8 million.¹³ For 2013, the plant-wide capital budget for San Juan is \$91.2 million.¹⁴ Thus, the

¹³ Joint Parties’ Comment, p. 6.

proposed \$2.5 million threshold for posting notice of a governing board’s meeting represents an investment that would be only about 2.7 percent of the annual capital budget.

The SCPPA San Juan Participants and Anaheim continue to believe that a \$5.0 million threshold representing about 5.5 percent of the average annual San Juan capital budget is a sufficiently low threshold for triggering the section 2908 notice requirement, assuming the notice requirement is to be triggered by the total investments by all of the participants jointly. If the Energy Commission is inclined to set a lower threshold, the SCPPA San Juan Participants and Anaheim urge the Energy Commission to consider a threshold that is no lower than \$4.0 million, which represents only about 4.4 percent of the average annual San Juan capital budget.

D. Narrow the Term “Environmental Regulatory Requirements.”

The proposed insertion into subsections 2908(a)(1) and (2) would apply to expenditures “to meet environmental regulatory requirements” at a non-EPS compliant baseload facility. By contrast, the POU Parties recommended that the section 2908 notice requirement apply more narrowly to investments “to meet environmental regulatory requirements specifically related to emission controls.”¹⁵

The notice requirement should be triggered by an environmental regulatory action that involves emissions rather than regulatory actions that might be environmentally oriented but would apply to water, waste disposal, or some other environmental issue that is unrelated to emissions. There is no nexus between regulatory actions that do not involve emissions and the EPS Regulation, which focuses exclusively on emissions. Thus, SCPPA San Juan Participants and Anaheim urge the Energy Commission to use the compromise language that the POU Parties proposed their February 15, 2013 comments.

¹⁴ *Ibid.*

¹⁵ Joint Parties, Comment, p. 6.

III. REQUIRING A NEW ANNUAL REPORT WOULD BE UNDULY BURDENSOME AND UNNECESSARY.

The Proposed Final Conclusions would create a new subsection 2908(b) that would require an annual “notice” of investments as follows:

(b) Except as provided below, each local publicly owned electric utility shall file annually a notice identifying all investments of \$2.5 million dollars or more that it anticipates making in the subsequent 12 months on non-EPS compliant baseload facilities to comply with environmental regulatory requirements. The filing shall contain a description of the investment and what it is intended to do, the associated costs, and an indication of when a decision to move forward is expected. The filing shall also include such any investments made in the previous 12 month period that were not identified in the previous annual notice. The filing shall be made within 10 days of the approval of the annual budget for the non-EPS compliant baseload facility.¹⁶

The new annual reporting requirement that would be imposed by subsection 2908(b) would be unduly burdensome. It would require an entirely new annual report that would have to be prepared by the already over-taxed staff at POUs that are still constrained by very tight budgets in the aftermath of the recent recession.

The proposed new annual reporting requirement would also be unnecessary. According to the Proposed Final Conclusions, the purpose for the new annual report is to “provide interested parties a longer period of time to examine and consider investments in non-EPS compliance facilities, so that when they receive notification under the Brown Act timelines they are prepared to more meaningful participate in POU deliberations.”¹⁷ This objective could be fully accomplished while imposing much less of a burden on overstretched POUs by adopting a variant of Option 1 that was presented in the Notice of Rulemaking Workshop (“Notice”) dated

¹⁶ Proposed Final Conclusions, p. 12.

¹⁷ Proposed Final Conclusions, p. 9.

December 20, 2012, in the captioned proceeding. Option 1 was described in the Notice as follows:

Option 1: This option would entail a POU providing a URL linked to the agenda for the public meeting of the POU at which any investment in a non-EPS compliant plant is being deliberated in advance of each business meeting. The URL would be provided no later than three days prior to the meeting and would be posted on the Energy Commission's website. This option would not require the Energy Commission to post back-up information on its website, nor would it distribute the URL and back-up information to a listserv.¹⁸

In their January 22, 2013 Comment on the options raised in the Notice, the SCPPA San Juan Participants and Anaheim explained that Option 1 as presented in the Notice was overly broad because it would reach beyond the scope of the EPS regulation to reach non-baseload facilities as well as baseload facilities.¹⁹ However, the SCPPA San Juan Participants and Anaheim said that Option 1 would be acceptable if it were narrowed to reach only baseload facilities.²⁰

The SCPPA San Juan Participants and Anaheim explained in their January 22, 2013 Comment that the SCPPA and Anaheim governing boards deliberate on annual budgets that include information about the expenses including capital expenditures that are expected to be incurred at the San Juan for the coming fiscal year. The information in the annual budgets about San Juan is based upon the annual budget that is prepared by the Operating Agent for San Juan, the Public Service Company of New Mexico ("PNM"), for each calendar year.²¹

Option 1, as narrowed to reach only baseload power plants, would require POUs such as SCPPA and Anaheim to provide a URL link to the agenda for meetings at which their governing

¹⁸ Notice, pp. 3-4

¹⁹ SCPPA San Juan Participants and Anaheim Comment (January 22, 2013 Comment"), pp. 6-7 (January 22, 2013).

²⁰ *Ibid*, pp. 7-8.

²¹ *Ibid*, p. 8.

boards would consider their annual budgets for San Juan as well as a link to the agenda for any other meeting at which the governing boards would deliberate on an individual investment at the plant.

Posting a notice and a URL link to the agenda for a meeting at which a governing board would consider the annual budget for San Juan would be much less burdensome on POUs than preparing an entirely new annual report to the Energy Commission. Simultaneously, it would provide more information to interested parties than the annual report as proposed in the Proposed Final Conclusions: interested parties would have information about *all* investments that are projected for the upcoming twelve month budgeting period, not just the investments that are identified in the proposed new subsection 2908(b).

Posting the notice and a URL link to the agenda for a meeting at which a governing board would consider the annual budget for San Juan would meet the objective that is stated in the Proposed Final Conclusions for requiring the new annual report. By being provided with the entire annual budget for San Juan for an upcoming year, interested parties would be allowed the desired longer period of time to examine and consider investments in non-EPS compliant baseload facilities.

Insofar as adopting a narrowed version of Option 1 would achieve the stated objective for requiring a new annual report but with far less burden on POUs, the SCPPA San Juan Participants and Anaheim urge the Lead Commissioner and the Energy Commission staff to reconsider the proposed new section 2908(b) and consider adopting, instead, Option 1 as appropriately narrowed to apply only to baseload facilities.

IV. IF THE ENERGY COMMISSION CONTINUES TO BELIEVE THAT IT SHOULD REQUIRE A NEW ANNUAL REPORT, SEVERAL REVISIONS SHOULD BE MADE TO THE NEW REPORTING PROVISION.

If the Energy Commission continues to believe that requiring an entirely new annual report is necessary, the SCPPA San Juan Participants and Anaheim urge several revisions to the new subsection 2908(b) as discussed below.

A. The Proposed Requirement for a New Annual Report Should Be Revised to Reflect the Revisions Proposed by the SCPPA San Juan Participants and Anaheim to Subsections 2908(a)(1) and (2).

Like the proposed subsections 2908(a)(1) and (2), the new subsection 2908(b) annual reporting requirement is ambiguous about whether the \$2.5 million applies to an individual POU's investment or to an investment by all project participants combined. Also, the new subsection 2908(b) applies to investments to "meet environmental regulatory requirements" at non-EPS compliant baseload facilities without being limited to investments to meet environmental regulatory requirements that are related to emission controls.

For the reasons stated above regarding the proposed subsections 2908(a)(1) and (2), the new subsection 2908(b) should be revised to make it clear that the \$2.5 million threshold applies to an individual investment by a POU rather than to the combined investment by all facility participants. However, if the threshold for triggering the posting requirement is intended to apply to a combined investment by facility participants, the dollar threshold should be raised from \$2.5 million to \$5.0 million or, in the alternative, at least \$4.0 million. Lastly, the application to investments to meet "environmental regulatory requirements" should be narrowed so that the new annual report would be limited to covering investments to meet environmental regulatory requirements that are related to emission controls.

B. The Identity of the POU that Is Subject to the Annual Reporting Requirement Should Be Clarified.

The proposed section 2908(b) “would require each local publicly owned electric utility” to file an annual report identifying the investments that “it anticipates making” during the subsequent 12 months in a non-EPS compliant baseload facility. The proposed section 2908(b) is ambiguous about who must submit an annual report. SCPPA, as a joint powers authority, holds a 41.8 percent interest in San Juan Project Unit 3 for the benefit of five SCPPA members, the Imperial Irrigation District (“IID”) and the cities of Azusa, Banning, Colton, and Glendale. The proposed subsection 2908(b) could be read to impose an annual reporting requirement on the SCPPA members that participate in San Juan Unit 3 through SCPPA. Alternatively, the subsection could be read as applying to the actual entity that has an ownership interest in San Juan Unit 3, SCPPA.

The latter interpretation is more reasonable and more likely to be what is intended. Furthermore, if SCPPA files an annual report, it would be redundant and wasteful for each SCPPA member which participates in San Juan Unit 3 through SCPPA to file reports that would duplicate the SCPPA report. Thus, if the Energy Commission desires to proceed with imposing a new annual reporting requirement, the new subsection 2908(b) should be revised to impose the reporting requirement on each jurisdictional local publicly owned electric utility “*that has an ownership interest in a non-EPS compliant baseload facility.*” With that modification, the new subsection 2908(b) would clearly apply to SCPPA and not to the SCPPA members that participate in San Juan Unit 3 through SCPPA.

C. The Deadline for Filing the New Annual Report Should Be Clarified.

As written, the proposed subsection 2908(b) requires that the new annual report be filed “within ten days of the approval of the annual budget for the non-EPS compliant baseload facility.” It is unclear which “approval” of the annual budget would trigger the ten-day period

for filing the annual report. The San Juan Engineering and Operating Committee is required to approve the annual budget for San Juan.²² However, as explained in the SCPPA San Juan Participants and Anaheim January 22, 2013 Comment, the SCPPA and Anaheim governing boards also deliberate on the annual budgets for San Juan. The governing boards consider the annual budget that is prepared by the San Juan Operating Agent for approval by the San Juan Engineering and Operating Committee.²³

It appears to the San Juan Participants and Anaheim that the Lead Commissioner and the Energy Commission staff believe the filing of the new annual report should be made within ten days after the approval of the annual budget for a non-EPS compliant baseload facility by the governing body of the entity such as SCPPA or Anaheim that has an ownership interest in the non-EPS compliant baseload facility. Thus, to eliminate the ambiguity about when the annual report would have to be filed, SCPPA San Juan Participants and Anaheim suggest that the proposed subsection 2908(b) be revised to provide that the report shall be filed within ten days of the approval of the annual budget for the non-EPS compliant baseload facility “*by the governing body of the publicly owned electric utility that holds an ownership interest in the baseload facility.*”

V. THE EXEMPTION FROM THE ANNUAL REPORTING REQUIREMENT FOR POUS THAT ENTER INTO A BINDING DIVESTMENT AGREEMENT SHOULD BE CLARIFIED.

The proposed new subsection 2908(c) would provide for an exemption from the annual reporting requirement for POUs that enter into a binding agreement to divest their interest in “all baseload facilities exceeding the EPS within five years:”

²² Amended and Restated San Juan Project Participation Agreement (“Participation Agreement”), Section 24.2 (March 23, 2006).

²³ January 22, 2013 Comment, p. 8.

- (c) A local publicly owned electric utility that has entered into a binding agreement to divest within 5 years of all baseload facilities exceeding the EPS is exempted from compliance with subsection (b) for as long as the binding agreement is in place or until such time that it has completed divestment of all non-EPS compliant baseload facilities.²⁴

SCPPA appreciates the inclusion of this exemption provision in the Proposed Final Conclusion.

However, as worded, the exemption provision would appear to require a POU to enter into binding agreements to divest its interest in all of its baseload facilities that exceed the EPS within five years. In some instances, SCPPA POUs have an ownership interest in a non-EPS compliant facility and a contractual commitment to a second non-EPS compliant baseload facility. As written, the exemption provision would prevent such a POU from taking advantage of the exemption provision if the POU had a binding agreement to divest itself of its ownership interest from the first facility but was still contractually bound for a period longer than five years to the second facility.

The annual reports that would be required under the new subsection 2908(b) would be plant-specific and would be submitted on a plant-by-plant basis. Thus, it would appear consistent with the structure of section 2908(b) for the exemption provision in section 2908(c) to be plant-specific so that if a POU entered into a binding commitment to divest its ownership interest in a baseload facility that exceeds EPS in five years, the POU would be exempt from the subsection 2908(b) reporting requirement for that facility.

Thus, if the Commission determines to impose the new annual reporting requirement contrary to the SCPPA San Juan Participants and Anaheim's recommendation, the exemption provision in the proposed subsection 2908(c) should be revised to read as follows, with the underlines showing the revised language: "A local publicly owned electric utility that has entered

²⁴ Proposed Final Conclusions, p. 12.

into a binding agreement to divest its ownership interest within five years in a baseload facility exceeding the EPS is exempted from compliance with subsection (b) for the baseload facility as long as the binding agreement is in place until such time that it has completed divestment of the non-EPS compliant baseload facility.”

VI. THE TERM “COVERED PROCUREMENT” SHOULD BE REPLACED THROUGHOUT SUBSECTION 2913(a).

The SCPPA San Juan Participants and Anaheim support and appreciate the Lead Commissioner’s conclusion that the term “covered procurements” should be replaced by the term “investments” in subsection 2913(a) of the EPS Regulation for the reasons given in the Proposed Final Conclusions.²⁵ However, the redline of subsection 2913(a) that appears in the Proposed Final Conclusions only replaces the term “covered procurements” with the term “investments” in two of the four places in which the term “covered procurement” appears in subsection 2913(a).²⁶ Subsection 2913(a) should be revised to replace the term “covered procurement” in all four places in which the term appears in the subsection.

VII. CONCLUSION.

The SCPPA San Juan Participants and Anaheim greatly appreciate the consideration that the Lead Commissioner and the Energy Commission staff have given to the comments submitted by the SCPPA San Juan Participants and Anaheim by the other commenting POUs in this proceeding, and they very much appreciate the conclusions reached in the Proposed Final Conclusions. However, they recommend the Commission make the further revisions as suggested above to the language in subsections 2908(a)(1) and (2).

Additionally, the SCPPA San Juan Participants and Anaheim continue to urge that the Energy Commission not to impose a new annual reporting requirement on POUs. The SCPPA

²⁵ Proposed Final Conclusions, pp. 21-23.

²⁶ Ibid, pp. 22-23.

San Juan Participants and Anaheim recommend that, instead, the Energy Commission should revise section 2908 to require posting of the URL link to the agenda for a public meeting in which a POU governing body deliberates on the annual budget for a non-EPS compliant baseload facility as would occur under a narrowed Option 1 as presented in the Notice. If the Energy Commission, nevertheless, continues to believe that a new annual report is necessary, the SCPPA San Juan Participants and Anaheim recommend that the proposed new subsections 2908(b) and (c) be revised as discussed above.

Lastly, the SCPPA San Juan Participants and Anaheim urge that, for the reasons given in the Proposed Final Conclusions, the term “covered procurements” be replaced with the term “investments” in all four places in which the term “covered procurements” appears in subsection 2913(a).

Respectfully submitted,

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