

Supporting Material for the Fiscal Impact Statement for Modification of Regulations Establishing a Greenhouse Gases Emission Performance Standard for Baseload Generation of Local Publicly Owned Electric Utilities

This document contains an analysis of the potential economic and fiscal impacts resulting from proposed changes to the regulations establishing and implementing a greenhouse gases emission performance standard (EPS) for local publicly owned electric utilities.

Fiscal Impact On Local Government

Statement of the Mandate

For any proposed regulation or changes to regulations, an agency must determine whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement. Additionally, an agency must prepare an estimate of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed, other nondiscretionary costs or savings imposed on the local agencies, and the cost or savings in federal funding to the state. Costs or savings means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with a regulation. (SAM 6601) Under state regulations, such impacts must be analyzed for the current fiscal year and for at least the next two fiscal years.

As described in the 2007 Fiscal Impact Statement,¹ the EPS regulations only prevent local publicly owned electric utilities from entering into certain long-term financial commitments and require the submission of materials confirming that they are in compliance with the regulations. The Energy Commission is proposing changes to the regulations that affect only the requirement to submit materials in compliance with the EPS regulations. This does not require local entities to undertake a new program.

Nevertheless, a Fiscal Impact Statement has been performed to present the potential costs that local entities might incur as a result of the proposed changes to the EPS regulations. If it is determined that the regulation does constitute a mandate pursuant to Article XIII B, section 6 of the State Constitution, the costs identified in this analysis would be non-reimbursable as sections 10001, 11501, 15501, and 20500 et seq. provide revenue sources for the affected entities to recoup their costs.

¹ *Supporting Material for the Fiscal Impact Statement for the Adoption of Regulations for Implementing the Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities (2007 Fiscal Impact Analysis)*, California Energy Commission, February 27, 2007.

Background

In 2007, the California Energy Commission established a greenhouse gases EPS for California's local publicly owned electric utilities as required by SB 1368 (Stats. 2006, ch. 598). This standard is set forth in Sections 2900 – 2907 of the regulations. It precludes long-term investments by California's local publicly owned electric utilities in resources designed and intended for baseload generation that emit high levels of greenhouse gases.² These investments include the construction or purchase of high-emission baseload power plants, as well as entering into contracts of five years or longer with such power plants for baseload energy.

The Energy Commission is proposing revisions to the EPS regulations that will ensure local publicly owned electric utilities' compliance with SB 1368. The proposed changes will modify the types of investments for which local publicly owned electric utilities would be required to provide public notice, add a provision requiring local publicly owned electric utilities to serve notice on interested parties as part of the public notice, adds an annual report of prospective investments in non-EPS compliant facilities (with an exemption provision), and clarifies that certain investments are not subject to compliance filing requirements or compliance review requirements. The proposed revisions also modify the types of investments that would qualify for a case-by-case review for an exemption for pre-existing multi-party commitments.

Working Data, Assumptions, and Calculations

Scope of Economic and Fiscal Impact Analysis

This document evaluates the economic and fiscal impact of the proposed changes to the EPS regulations on California's local publicly owned electric utilities. In the 2007 Fiscal Impact Statement, the Energy Commission determined that there were no economic costs imposed by the implementation of the original EPS regulations. The economic costs that were assessed in the 2007 Fiscal Impact Statement included those costs that could lead to an increase in the projected revenue requirement of the utilities, and thus, the electricity costs for utility customers. They did not consider remote impacts such as the effect of an increase in the cost of energy on the consumption of electricity or the level of economic activity, both generally and across economic sectors. The 2007 Fiscal Impact Statement determined that the EPS regulations would not increase the costs to utilities or their customers. Consistent with the 2007 Fiscal Impact Statement,

² "High levels of greenhouse gases" are emissions that exceed the standard of 1,100 lbs CO₂/MWh set forth Section 2902. "Baseload generation" is defined in section 2901(b) as "electricity generation from a powerplant that is designed and intended to provide electricity at an annualized, rolling year capacity factor of at least 60 percent."

the proposed changes to the EPS regulations will not have an impact on anticipated economic costs as discussed below.

The administrative costs identified in the 2007 Fiscal Impact Statement were those costs associated with verifying compliance with the requirements and prohibitions set forth in the EPS regulations and meeting the reporting requirements. The 2007 Fiscal Impact Statement determined that the administrative costs of complying with the EPS regulations were minimal. The proposed changes to the regulations may result in a modest increase in the administrative costs for verifying compliance with the requirements as discussed below.

Anticipated Economic Costs Resulting from the Proposed Regulations

In the 2007 Fiscal Impact Statement, potential areas of increased economic costs were identified based on three features of the EPS regulations. These included prohibitions on: the purchase of existing high emission resources; new long-term contracts or extension of existing contracts with high emission resources; and construction of new high emission baseload resources.

The 2007 Fiscal Impact Statement concluded that, even in the absence of the EPS regulations, the local publicly owned electric utilities would not be anticipated to purchase existing high-emission resources that provide baseload energy because they would not provide a cost savings. As a result, there are no economic costs associated with the limitation on the purchase of existing high emission resources. The proposed changes to the EPS regulations do not affect this prohibition and consequently have no economic impacts.

For new long-term contracts or extensions of existing contracts, the 2007 Analysis concluded that the only plants capable of generating baseload energy at a cost lower than the cost of power plants that comply with the EPS are coal facilities. New contracts or renewal of contracts for these coal facilities would be at the price of replacement power, not at their cost of production. As a result, no economic costs are likely to result from precluding these contracts. The proposed changes to the regulations do not alter the limitation on new or renewed contracts and therefore have no anticipated economic costs.

The 2007 Fiscal Impact Statement noted that the potential costs of precluding construction of high-emission power plants would be the difference between the cost of energy from the least expensive power plant that meets the EPS and a new high-emissions power plant. Because the need for new baseload generation is expected to be met with natural gas-fired power plants, the prohibition on new construction would not pose any additional costs. The proposed changes to the EPS regulations have no

impact on the preclusion of new construction and consequently result in no economic costs.

Based on the conclusions in the 2007 Fiscal Impact Statement that the prohibitions in the EPS regulations would result in no economic costs, plus the fact that the proposed changes to the EPS regulations make no material change to the EPS prohibitions, there are no anticipated economic costs associated with the proposed changes.

Anticipated Administrative Costs Resulting from the Proposed Regulations

The 2007 Fiscal Impact Statement concluded that the administrative costs associated with complying with the EPS regulations were expected to be minimal. The majority of the proposed investments made by local publicly owned electric utilities would not require substantial, if any, resources to verify compliance nor the production of documents (other than *pro forma* documents) that are only necessary because of the EPS regulations. Compliance with the regulations involved three activities: verifying compliance with the regulations, notification of investments by local publicly owned electric utilities and making compliance filings.

The proposed changes to the EPS regulations are expected to result in a very modest increase in the administrative costs for compliance. The proposed changes to the regulations include the following:

- Adding “investments of \$2.5 million or more to meet environmental regulatory requirements for non-EPS compliant facilities” and adding a requirement to notice all persons on the Energy Commission’s master contact list to the public notice requirement under Section 2908.
- Adding an annual notice identifying investments that a local publicly owned electric utility anticipates making in the subsequent 12 months on non-EPS compliant facilities and an exemption provision for local publicly owned electric utilities who have a binding agreement to divest themselves of a non-EPS compliant facility under Section 2908.
- Adding a provision in Section 2908 clarifying that “investments of \$2.5 million or more to meet environmental regulatory requirements for non-EPS compliant facilities” that are not also a covered procurement are exempted from compliance filings under Section 2909 or compliance review under Section 2910.
- Replacing the term “covered procurement” with “investments” in Section 2913.

The 2007 Fiscal Impact Statement identified compliance costs for the three largest local publicly owned electric utilities to be no more than 0.15 person-years of non-technical staff. The changes to the regulations are anticipated to increase this Energy

Commission staff estimate to no more than 0.20 person-years of non-technical staff, for an increase of .05 person years for each of the largest three POUs.

For the Southern California Public Power Authority and the Northern California Power Agency, who would be acting on behalf of their members, the 2007 Fiscal Impact Statement estimated that administrative costs would be no more than 0.10 person-years of non-technical staff. The Energy Commission estimates that the proposed changes to the EPS regulations are anticipated to increase these costs to no more than 0.15 person-years of non-technical staff, resulting in a net increase of only .05 person years per entity.

For the remaining local publicly owned electric utilities, the 2007 Fiscal Impact Statement estimated a total of no more than 0.75 person-years for non-technical staff. The Energy Commission anticipates the proposed changes to the EPS regulation would increase to no more than 1.10 person-years of non-technical staff, in total, or a net increase of .35 person years for all remaining POUs combined.

The 2007 Fiscal Impact Statement identified a total of 1.4 person-years for non-technical staff, at a cost of \$125,000 for the EPS regulations, resulting in total administrative costs of \$175,000 annually. The proposed changes to the regulations yield a total of 2.0 person-years at a cost of \$125,000 per person year, resulting in total administrative cost estimate of \$250,000 annually, or a maximum anticipated increase of \$75,000 for the proposed changes.

Conclusion

No economic impact to local agencies is anticipated from the adoption of the proposed changes to the regulations. The administrative costs to the state's local publicly owned electric utilities to implement the regulations with the addition of the proposed changes is conservatively estimated at \$250,000 per year (\$175,000 for preexisting requirements and an additional \$75,000 for the proposed changes).

Fiscal Impact on State Government

Cost to State Agencies

No state agencies, other than the Energy Commission, are affected by these proposed changes to the EPS regulations; therefore no other agency will necessarily incur any costs in the reasonable compliance, administration, or enforcement. Impacts resulting from proposed changes to the regulations are solely administrative and involve staff time necessary to implement and enforce the proposed regulations. In the 2007 Fiscal Impact Statement the Energy Commission estimated that up to 2,000 hours may be needed annually to review filings by the local publicly owned electric utilities and

determine compliance with SB 1368 based on the record of the proceeding developed at that time. However, experience implementing and enforcing the regulations over the last several few years shows that the number of hours is more on the order of 100 hours annually or roughly .05 person-years. The modifications to the regulations will require additional effort by staff to maintain the master contact list and to review and upload the new annual filings required in Section 2908. In addition, staff time would be needed to review petitions and determine their compliance with the exemption provisions as modified in Section 2913. The Energy Commission estimates that the proposed modifications to the regulations will require an additional .05 person-year, which equates to an additional cost for the modifications of \$6,000 annually. The total cost for implementing and enforcing the modified regulations of \$12,000 annually (\$6,000 for preexisting requirements and an additional \$6,000 for the proposed changes) has been determined to be absorbable within the Energy Commission's existing budget. No savings to the state will result from these proposed regulations.

Fiscal Impact on Federal Funding of State Programs

The proposed changes to the regulations do not result in any reduction in or savings of federal funds.

Economic Impacts On Businesses

The 2007 Fiscal Impact Statement for the EPS proposed regulations concluded that no significant economic impacts would be imposed on sellers of electricity. Since local publicly owned electric utilities constitute a small share of the Western U.S. market's demand for wholesale electricity, any restriction on such demand, such as that anticipated in the proposed regulations, will likely have no impact on sellers of electricity. Only a small proportion of the electricity currently sold in California will fail to meet the EPS. The sellers of such electricity will have two options: 1) they can sell through contracts of less than 5 years, which is expressly allowed under the proposed regulations; or 2) they can sell to entities not subject to SB 1368, including purchasers of electricity in other states. The proposed changes to the EPS regulations do not change any of the conditions considered above and as a result have no impact on business.