



Via Electronic Mail

June 16, 2014

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 12-OIR-1
1516 Ninth Street
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California Energy Commission

DOCKETED

12-OIR-01

TN 73200

JUN 16 2014

Re: 12-OIR-1, Comments on Final Conclusions and Notice of Proposed Action, Modification of Regulations Establishing a GHG Emission Performance Standard for Baseload Generation of Local Publicly Owned Electric Utilities

The Natural Resources Defense Council (NRDC) and Sierra Club submit the following comments on the Final Conclusions in 12-OIR-01. NRDC and the Sierra Club thank the Energy Commission for completing this important rulemaking. We also appreciate the progress made by the Publicly Owned Utilities (POUs) involved in this proceeding over the course of the last several years. Since this proceeding began, we have engaged in useful and candid dialogue, inside and outside the public process, regarding POU investments in coal-fired generation. We very much appreciate the public commitment of the City of Los Angeles to end its reliance on coal power at the Navajo Generating Station and the Intermountain Power Plant in the coming years, pursuant to the Emission Performance Standard (EPS) and the broad public support for clean energy. We also appreciate the ongoing work of SCPPA, Anaheim and MSR related to the settlement and retirement negotiations at San Juan Generating Station. We fully expect that in the coming years, California utilities will no longer rely on coal-fired generation.

We support the Commission's proposed regulatory changes as a reasonable compromise between parties in this rulemaking. We strongly support the annual reporting requirement as an important means of providing the Commission and the public with sufficient advanced notice of potential future investments in non-compliant facilities to allow for meaningful analysis and engagement with POUs over potential concerns. While we recommended lower monetary thresholds for disclosure of planned investments, the \$2.5 million threshold proposed by the Commission should be sufficient to expose new major investments.

While we had initial concerns with proposed changes to Section 2913 on the potential exemption process for pre-existing multi-party commitments, these concerns have been largely addressed in clarification in the Final Conclusions setting forth Commission expectations for POUs in joint contractual relationships. As provided in the Final Conclusions:

[I]f the voting shares of all the California POUs involved in the investment were enough to stop the investment if all California POUs voted against it, then an exemption under Section 2913 would not be warranted. This is because the POUs, acting together and in accordance with SB 1368, could indeed avoid the investment and, thus, would be obligated to do so. The Energy Commission believes that SB 1368 obligates California POUs to vote against investments that would violate SB 1368, whether or not that vote, on its own, would be sufficient to block the investment.¹

We appreciate the Commission's guidance and clarification on this important issue.

Finally, we strongly support the Commission's decision to keep the Emission's Performance Standard in place given its important role in preventing future investment in the dirtiest power plants—and the risk exposure that investment brings to California customers.

Thank you for your consideration of these comments and your efforts in this rulemaking.

Respectfully Submitted,



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¹ 12-OIR-1, Final Conclusions (Mar. 19, 2014) at 26-27.