

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 5, 2006

To: The Commission
(Meeting of April 13, 2006)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1368 (Perata) - Electricity: emissions of greenhouse gases.
As Introduced February 21, 2006**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support, if amended

SUMMARY OF BILL: This bill would authorize the Energy Commission, in consultation with the CPUC and the State Air Resources Board, to establish a greenhouse gas (GHG) emissions performance standard for baseload generation that would not exceed the emissions of a combined-cycle natural gas power plant. Load serving entities would be prevented from entering into financial commitments for baseload generation exceeding three years unless that baseload generation complied with the Energy Commission adopted GHG emissions performance standard. The CPUC would not be allowed to authorize any financial commitments exceeding three years for baseload generation unless it also complies with the Energy Commission's adopted GHG performance standard.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The purpose of this bill is to reduce greenhouse gas emissions. Reduction of GHG emissions will improve public health and welfare in California and neighboring states. Municipal utilities will also need to comply with the GHG emissions performance standards. The bill is very similar to the CPUC's GHG policy statement.

SUMMARY OF SUGGESTED AMENDMENTS:

Staff recommends working with the author's office to reconcile the bill language with actions taken by the CPUC relative to long term procurement and length of contract terms.

DIVISION ANALYSIS (Energy Division):

This bill has the potential to impact 91% of the fossil generation capacity available to the utilities. The total fossil (oil & gas + coal) generation capacity in California is roughly 29,800 MW. These are from Exempted Wholesale Generators (as certified by FERC) only and DOES NOT include municipal's, QF's, or special districts. Of total capacity, peaking plants account for 2,700 MW. The balance, 27,100 MW, is baseload generation. Senate Bill 1368 is aimed at baseload plants.

On October 6, 2005, the CPUC issued a Policy Statement on Greenhouse Gas Performance Standards. The Policy Statement "...directs Staff and its General Counsel to investigate adoption by the PUC of a greenhouse gas emissions performance standard for IOU procurement that is no higher than the GHG emissions levels of a combined-cycle natural gas turbine for all procurement contracts that exceed three years in length and for all new IOU owned generation...." In effect, Senate Bill 1368 and the CPUC Policy Statement mirror each other.

The CPUC has already included some GHG regulations in its procurement decisions. In D.04-12-048, the CPUC directed IOUs to employ a GHG adder when evaluating fossil and renewable bids received via an all-source Request for Offers (RFO). That decision adopted a range of values to explicitly account for the financial risk associated with GHG emissions, to be used in the evaluation of fossil generation bids. The GHG value is to be added to the prices bid in future RFOs, and will be used to develop a more accurate price comparison between and among fossil, renewable and demand-side bids. While the GHG adder is an analytical tool only, and will not be paid to generators or charged to ratepayers, the effect of the adder is to potentially change which bids and resources are selected.

In addition to the GHG adder, D.04-12-048 also directed the IOUs to employ, when finalized and approved by the CPUC, the additional environmental avoided cost values under development in the Avoided Cost Rulemaking (R.04-04-025). That decision anticipated that the avoided cost values would be adopted in approximately March 2005, and will include a fixed value for GHG (not simply a range) as well as values for other, non-GHG pollutants.

In D.06-02-032, the CPUC stated its intent to develop a load-based cap on GHG emissions for the IOUs and non-utility load serving entities (LSEs) that is compatible with other GHG cap-and-trade regime that may be developed in the future, either in the Western Region, nationally, or internationally. As such, the GHG emissions allowances associated with the CPUC's load-based cap will be in the form of "tons of carbon-dioxide equivalent."

The decision also set the foundation for a process that will explore a range of flexible compliance options in order to minimize the cost of meeting the cap, including the concept of allowance sale incentives. Under this mechanism, the CPUC would certify GHG emission allowances based on superior performance, as defined by the CPUC that the utilities could sell outside of California to the benefit of their shareholders.

As proposed, the bill's definition of a long-term contract as a commitment of three years or longer would require changes in the implementation of the long-term procurement plans (LTPP) by the CPUC and the IOUs.

The CPUC's procurement planning process currently defines "long-term" as five years or longer. Under Commission rules, long-term contracts require CPUC approval. The IOU's currently plan their procurement activities based on this time frame. Changing the definition of "long-term" to three years would require changes to CPUC decisions and to the IOUs' LTPPs. The strategies and models that the IOUs use may also be impacted.

The proposed three-year time frame for long-term procurement contracts affected by this legislation would impact qualifying facilities (QF) providing baseload energy. Many QF's are older generation facilities that may not be able to meet the new emission performance standards. The bill would limit the duration of any new contracts with these QF's to less than three years. This may increase risk for the QF's and result in higher costs for ratepayers.

PROGRAM BACKGROUND:

Senate Bill 1368 will impact energy procurement. The CPUC has issued numerous decisions establishing procurement rules, policies, and procedures for the IOUs. Decision (D). 03-12-062, issued in Rulemaking (R). 01-10-024, gave the IOUs procurement authority for 2004, including the authority to sign contracts for up to five-year duration for 2005 procurement needs. D.04-12-048 gave the three IOUs authorization to plan for and procure the resources necessary to provide reliable service to their customer loads for the planning period 2005 through 2014.

R.06-02-003 is the successor rulemaking to R.04-04-003 and R.01-10-024. R.06-02-003 was opened to review the need for additional policies to support new generation, and review/adopt long-term plans.

In addition to the Policy Statement on Greenhouse Gas Performance Standards that was issued on October 6, 2005, the decisions and rulemakings that were initiated to address energy procurement also have wrestled with GHG emissions issues. Decision 04-12-048 that authorized the three IOUs to procure through 2014 also required a GHG adder in the IOUs evaluation of resources. The proceeding for D. 06-02-032 that set the foundation for a GHG emissions cap-and-trade was R.04-04-003, resource planning. Additionally, other CPUC proceedings will continue to wrestle with GHG

emission issues. Other potential proceedings that will be impacted include the energy efficiency rulemaking (R.01-08-028), the avoided cost rulemaking (R.04-04-025), the community choice aggregator rulemaking (R.03-10-003), on-going transmission proceedings (R.04-01-026 and investigation 00-11-001), renewable portfolio standard rulemaking (R.04-04-026), and the distributed generation rulemaking (R.04-03-017).

LEGISLATIVE HISTORY:

None

FISCAL IMPACT:

None

OTHER STATES' OR FEDERAL INFORMATION (if known):

Nine Northeast and Mid-Atlantic states have initiated a Regional Greenhouse Gas Initiative (RGGI). RGGI is a cooperative effort to discuss the design of a regional cap-and-trade program initially covering carbon dioxide emissions from power plants in the region. In the future, RGGI may be extended to include other sources of greenhouse gas emissions, and greenhouse gases other than CO₂.

STATUS:

This bill was heard in the Senate Energy, Utilities and Communications Committee on April 4, 2006 and passed. The bill now moves to the Senate Appropriations Committee.

SUPPORT/OPPOSITION:**Support**

E2 (Environmental Entrepreneurs)
Natural Resources Defense Council
Pacific Gas and Electric Company, if amended
Sacramento Metropolitan Air Quality Management District
Sempra Energy, if amended
Sierra Club California
The Utility Reform Network
Union of Concerned Scientists

Oppose

California Manufacturers and Technology Association
California Municipal Utilities Association
Center for Energy and Economic Development
Southern California Edison
Sustainable Environment and Economy for California
Western States Petroleum Association

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BILL LANGUAGE:

BILL NUMBER: SB 1368 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Perata
(Coauthor: Assembly Member Levine)

FEBRUARY 21, 2006

An act to amend Section 454.5 of, and to add Chapter 3 (commencing with Section 8340) to Division 4.1 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1368, as introduced, Perata Electricity: emissions of greenhouse gases.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of electricity generated by eligible renewable energy resources.

Under existing law the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to report certain information relative to renewable energy resources to its customers.

Existing law defines an "electric service provider" as an entity that offers electrical service to customers within the service territory of an electrical corporation, excluding electrical corporations, local publicly owned electric utilities, and certain cogenerators. Provisions of the existing Public Utilities Act restructuring the electrical services industry require that electric service providers register with the PUC and require the PUC to authorize and facilitate direct transactions between electric service providers and retail end-use customers. However, other existing law suspends the right of retail end-use customers other than community aggregators, to acquire service through a direct transaction, until the Department of Water Resources no longer supplies electricity

under that law.

Existing law defines a "community choice aggregator" and authorizes customers to aggregate their electric loads as members of their local community with community choice aggregators.

This bill would prohibit any load serving entity, including electrical corporations, community choice aggregators, electric service providers, and local publicly owned electric utilities, from entering into, and the PUC from approving, a long-term financial commitment, as defined, for baseload generation, as defined, unless that baseload generation complies with a greenhouse gases emission performance standard established by the Energy Commission, by regulation, in consultation with the PUC and the State Air Resources Board. The bill would require that the greenhouse gases emission performance standard not exceed the per kilowatthour emissions of greenhouse gases of a combined-cycle natural gas powerplant. The bill would authorize the PUC to adopt rules to enforce these requirements for electrical corporations, electric service providers, and community choice aggregators. The bill would require that a procurement plan approved by the PUC for an electrical corporation be consistent with the greenhouse gases emission performance standard. The bill would authorize the Energy Commission to adopt regulations for the enforcement of the greenhouse gases emission performance standard with respect to a local publicly owned electric utility.

(2) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because certain of the provisions of this bill are within the act and require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Global warming will have serious adverse consequences on the economy, health, and environment of California.

(b) The Governor, in Executive Order S-3-05, has called for the reduction of California's emission of greenhouse gases to 1990 levels by 2020.

(c) Over the past three decades, the state has taken significant strides towards implementing an environmentally and economically sound energy policy through reliance on energy efficiency, conservation, and renewable energy resources in order to promote a sustainable energy future that ensures an adequate and reliable energy supply at reasonable and stable prices.

(d) To the extent energy efficiency and renewable resources are unable to satisfy increasing energy and capacity needs, the Energy

Action Plan II establishes a policy that the state will rely on clean and efficient fossil fuel fired generation and will "encourage the development of cost-effective, highly-efficient, and environmentally-sound supply resources to provide reliability and consistency with the State's energy priorities."

(e) California's investor-owned electric utilities currently have long-term procurement plans that include proposals for making new long-term financial commitments to electrical generating resources over the next decade, which will generate electricity while producing emissions of greenhouse gases for the next 30 years or longer.

(f) The Public Utilities Commission (PUC) and State Energy Resources Conservation and Development Commission (Energy Commission) both have concluded, and the Legislature finds, that federal regulation of emissions of greenhouse gases is likely during this decisionmaking timeframe.

(g) It is vital to ensure all electricity load serving entities internalize the significant and underrecognized cost of emissions recognized by the PUC with respect to the investor-owned electric utilities, and to reduce California's exposure to costs associated with future federal regulation of these emissions.

(h) The establishment of a policy to reduce emissions of greenhouse gases, including an emissions performance standard for all procurement of electricity by load serving entities, is a logical and necessary step to meet the goals of the Energy Action Plan II and the Governor's goals for reduction of emissions of greenhouse gases.

(i) A greenhouse gases emission performance standard for new long-term financial commitments to electrical generating resources will reduce potential financial risk to California consumers for future pollution-control costs.

(j) A greenhouse gases emission performance standard for new long-term financial commitments to electric generating resources will reduce potential exposure of California consumers to future reliability problems in electricity supplies.

(k) In order to have any meaningful impact on climate change, the Governor's goals for reducing emissions of greenhouse gases must be applied to the state's electricity consumption, not just the state's electricity production.

(l) The 2005 Integrated Energy Policy Report adopted by the Energy Commission recommends that any greenhouse gases emission performance standard for utility procurement be set no lower than levels achieved by a new combined-cycle natural gas turbine.

(m) As the largest electricity consumer in the region, California has an obligation to provide clear guidance on performance standards for procurement of electricity by load serving entities.

SEC. 2. Section 454.5 of the Public Utilities Code is amended to read:

454.5. (a) The commission shall specify the allocation of electricity, including quantity, characteristics, and duration of electricity delivery, that the Department of Water Resources shall provide under its power purchase agreements to the customers of each electrical corporation, which shall be reflected in the electrical corporation's proposed procurement plan. Each electrical corporation shall file a proposed procurement plan with the commission not later than 60 days after the commission specifies the allocation of electricity. The proposed procurement plan shall specify the date that the electrical corporation intends to resume procurement of

electricity for its retail customers, consistent with its obligation to serve. After the commission's adoption of a procurement plan, the commission shall allow not less than 60 days before the electrical corporation resumes procurement pursuant to this section.

(b) An electrical corporation's proposed procurement plan shall include, but not be limited to, all of the following:

(1) An assessment of the price risk associated with the electrical corporation's portfolio, including any utility-retained generation, existing power purchase and exchange contracts, and proposed contracts or purchases under which an electrical corporation will procure electricity, electricity demand reductions, and electricity-related products and the remaining open position to be served by spot market transactions.

(2) A definition of each electricity product, electricity-related product, and procurement related financial product, including support and justification for the product type and amount to be procured under the plan.

(3) The duration of the plan.

(4) The duration, timing, and range of quantities of each product to be procured.

(5) A competitive procurement process under which the electrical corporation may request bids for procurement-related services, including the format and criteria of that procurement process.

(6) An incentive mechanism, if any incentive mechanism is proposed, including the type of transactions to be covered by that mechanism, their respective procurement benchmarks, and other parameters needed to determine the sharing of risks and benefits.

(7) The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission's review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.

(8) Procedures for updating the procurement plan.

(9) A showing that the procurement plan will achieve the following:

(A) The electrical corporation will, in order to fulfill its unmet resource needs and in furtherance of Section 701.3, until a 20 percent renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1 percent per year of the electricity sold by the electrical corporation is generated from renewable energy resources, provided sufficient funds are made available pursuant to Section 399.6, to cover the above-market costs for new renewable energy resources.

(B) The electrical corporation will create or maintain a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reductions products.

(C) The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

(10) The electrical corporation's risk management policy, strategy, and practices, including specific measures of price stability.

(11) A plan to achieve appropriate increases in diversity of ownership and diversity of fuel supply of nonutility electrical generation.

(12) A mechanism for recovery of reasonable administrative costs related to procurement in the generation component of rates.

(c) The commission shall review and accept, modify, or reject each electrical corporation's procurement plan. The commission's review shall consider each electrical corporation's individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth in this subdivision shall apply to that electrical corporation. A procurement plan approved by the commission shall contain one or more of the following features, provided that the commission may not approve a feature or mechanism for an electrical corporation if it finds that the feature or mechanism would impair the restoration of an electrical corporation's creditworthiness or would lead to a deterioration of an electrical corporation's creditworthiness:

(1) A competitive procurement process under which the electrical corporation may request bids for procurement-related services. The commission shall specify the format of that procurement process, as well as criteria to ensure that the auction process is open and adequately subscribed. Any purchases made in compliance with the commission-authorized process shall be recovered in the generation component of rates.

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

(3) Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

(d) A procurement plan approved by the commission shall accomplish each of the following objectives:

(1) Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and assure that each contract was administered in accordance with the terms of the contract, and contract disputes which may arise are reasonably resolved.

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission

shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed 5 percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.

(4) Moderate the price risk associated with serving its retail customers, including the price risk embedded in its long-term supply contracts, by authorizing an electrical corporation to enter into financial and other electricity-related product contracts.

(5) Provide for just and reasonable rates, with an appropriate balancing of price stability and price level in the electrical corporation's procurement plan.

(6) *Be consistent with the requirements of Chapter 3 (commencing with Section 8340) of Division 4.1.*

(e) The commission shall provide for the periodic review and prospective modification of an electrical corporation's procurement plan.

(f) The commission may engage an independent consultant or advisory service to evaluate risk management and strategy. The reasonable costs of any consultant or advisory service is a reimbursable expense and eligible for funding pursuant to Section 631.

(g) The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

(h) Nothing in this section alters, modifies, or amends the commission's oversight of affiliate transactions under its rules and decisions or the commission's existing authority to investigate and penalize an electrical corporation's alleged fraudulent activities, or to disallow costs incurred as a result of gross incompetence, fraud, abuse, or similar grounds. Nothing in this section expands, modifies, or limits the State Energy Resources Conservation and Development Commission's existing authority and responsibilities as set forth in Sections 25216, 25216.5, and 25323 of the Public Resources Code.

(i) An electrical corporation that serves less than 500,000

electric retail customers within the state may file with the commission a request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

SEC. 3. Chapter 3 (commencing with Section 8340) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 3. GREENHOUSE GASES EMISSION PERFORMANCE STANDARD FOR BASELOAD ELECTRICAL GENERATING RESOURCES

8340. For purposes of this chapter, the following terms have the following meanings:

(a) "Baseload generation" means electricity generation from a powerplant that is designed to provide electricity for least 60 percent of the hours in a year.

(b) "Community choice aggregator" means a "community choice aggregator" as defined in Section 331.1.

(c) "Electrical corporation" means an "electrical corporation" as defined in Section 218.

(d) "Electric service provider" means an "electric service provider" as defined in Section 218.3.

(e) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(f) "Greenhouse gases" means those gases listed in subdivision (h) of Section 42801.1 of the Health and Safety Code.

(g) "Load serving entity" includes every electrical corporation, community choice aggregator, electric service provider, and local publicly owned electric utility serving end-use customers in California.

(h) "Local publicly owned electric utility" means a "local publicly owned electric utility" as defined in Section 9604.

(i) "Long-term financial commitment" means either an ownership investment in a powerplant or a contract for procurement of baseload electricity with a term of three or more years.

8341. (a) No load serving entity may enter into a long-term financial commitment for baseload generation unless that baseload generation complies with the greenhouse gases emission performance standard established by the Energy Commission, as required in subdivision (d).

(b) (1) The commission may not approve a long-term financial commitment for baseload generation for an electrical corporation

unless that baseload generation complies with the greenhouse gases performance standard established by the Energy Commission, as required in subdivision (d).

(2) The commission may adopt rules to enforce the requirements of this section, for electrical corporations, electric service providers, and community choice aggregators.

(3) The commission may, in order to enforce the requirements of this section, review any long-term financial commitment proposed to be entered into by an electric service provider or a community choice aggregator.

(c) The Energy Commission may adopt regulations for the enforcement of this chapter with respect to a local publicly owned electric utility.

(d) (1) The Energy Commission, in consultation with the commission and the State Air Resources Board, shall establish a greenhouse gases emission performance standard for baseload generation. The greenhouse gases emission performance standard shall be adopted by regulation pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(2) The Energy Commission shall base the greenhouse gases emission performance standard on the anticipated life-cycle emissions of greenhouse gases from the baseload generation. In adopting the greenhouse gases emission performance standard, the Energy Commission shall consider the effects of the standard on system reliability and overall costs to electricity customers.

(3) The greenhouse gases emission performance standard shall not exceed the per kilowatthour emissions of greenhouse gases of a combined-cycle natural gas powerplant.

SEC. 4.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.