

2-11-1998

## Electric Utilities. Assessments. Bonds.

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# State of California



# 805

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SECRETARY OF STATE

JUN 30 1998

June 24, 1998

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS (98261)

Pursuant to Section 9033 of the Elections Code, I hereby certify that on June 24, 1998 the certificates received from the County Clerks or Registrars of Voters by the Secretary of State established that the Initiative Statute, ELECTRIC UTILITIES. ASSESSMENTS. BONDS., has been signed by the requisite number of qualified electors needed to declare the petition sufficient. The ELECTRIC UTILITIES. ASSESSMENTS. BONDS. INITIATIVE STATUTE., is, therefore, qualified for the November 3, 1998 General Election.

ELECTRIC UTILITIES. ASSESSMENTS. BONDS. INITIATIVE STATUTE. Prohibits assessment of utility tax, bond payments or surcharges for payment of costs of nuclear power plants/related assets. Limits authority of electric companies to recover costs for non-nuclear generation plants. Prohibits issuance of rate reduction bonds and assessments on customers for payment of bond principal, interest and related costs. Provides judicial review of Public Utilities Commission decisions relating to electric restructuring and financing costs by writ of mandate. May provide up to 20% electricity rate reduction for residential and small commercial customers of investor owned utilities by January 1, 1999. Restricts customer information dissemination. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The net impact of the measure on state government revenues would be annual revenue reductions potentially in the range of \$100 million per year from 1998-99 through 2001-02, in turn resulting in decline in the minimum funding guarantee under Proposition 98 for K-14 education by about \$50 million after 2001-02. The state would be required to offset a portion of local school district losses in property taxes, resulting from downward assessments of nuclear facilities. Potential state liability for debt service on \$7 billion in bonds previously issued may result from judicial interpretation of applicability of measure to those bonds. Additional workload may increase state administrative, judicial and legal costs of probably less than \$5 million annually. The net impact on local governments would be revenue reductions, potentially in the tens of millions of dollars annually from 1998-99 through 2001-02. State and local governments would realize savings associated with lower utility rates, in the tens of millions of dollars annually.



IN WITNESS WHEREOF,  
I hereunto set my hand and affix  
the Great Seal of the State of California  
this 24<sup>th</sup> day of June, 1998.

*Bill Jones*

BILL JONES  
Secretary of State

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Archives  
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**BILL JONES**  
*Secretary of State*  
*State of California*

**ELECTIONS DIVISION**  
(916) 657-2166  
1500 - 11<sup>th</sup> STREET  
SACRAMENTO, CA 95814  
Voter Registration Hotline  
1-800-345-VOTE  
For Hearing and Speech Impaired  
Only  
1-800-833-8683  
e-mail: comments@ss.ca.gov

February 11, 1998

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (98070)

FROM: *Cathy Mitchell*  
CATHY MITCHELL  
ELECTIONS SPECIALIST

SUBJECT: **INITIATIVE #805**

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**ELECTRIC UTILITIES. ASSESSMENTS. BONDS.  
INITIATIVE STATUTE.**

The proponents of the above-named measure are:

Harvey Rosenfield  
Coalition Against Utility Taxes (CUT)  
P.O. Box 7160  
Santa Monica, California 90406

Nettie Hoge  
The Utility Reform Network (TURN)  
711 Van Ness Avenue, Suite 350  
San Francisco, California 94102

Elisabeth Robinson Gunther  
c/o Public Media Center  
466 Green Street  
San Francisco, California 94133

**RECEIVED**

**FEB 23 1998**

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MCCOY'S COLLEGE OF THE LAW



#805  
ELECTRIC UTILITIES. ASSESSMENTS. BONDS.  
INITIATIVE STATUTE.

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required: ..... 433,269  
California Constitution, Article II, Section 8(b)
  
2. Official Summary Date:..... Wednesday, 02/11/98  
Elections Code section (EC§) 336
  
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (EC §336) ..... Wednesday, 02/11/98
  
  - b. Last day Proponent can circulate and file  
with the county. All sections are to be filed at the  
same time within each county (EC §336, 9030(a)) .....Monday, 07/13/98\*
  
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (EC §9030(b))..... Thursday, 07/23/98  
  
(If the Proponent files the petition with the county on a date prior to 07/13/98,  
the county has eight working days from the filing of the petition to determine the  
total number of signatures affixed to the petition and to transmit the total to the  
Secretary of State) (EC §9030(b)).
  
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures,  
and notifies the counties (EC §9030(c))..... Saturday, 08/01/98\*\*
  
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(EC §9030(d)(e)) ..... Tuesday, 09/15/98

\* Date adjusted for official deadline that falls on a Saturday. (EC §15)

\*\* Date varies based on receipt of county certification.



**INITIATIVE #805**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 08/01/98, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 476,596 or less than 411,606 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 411,606 and 476,596 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a)) ..... Friday, 09/25/98\*\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State (EC §9031(b)(c)). ..... Monday, 11/09/98

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 09/25/98, the last day is no later than the thirtieth working day after the county's receipt of notification). EC §9031(b)(c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033)..... Friday, 11/13/98\*\*

**NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 3, 1998 GENERAL ELECTION:** This initiative must be certified for the ballot 131 days before the election (June 25, 1998). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections official by April 17, 1998. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 25, 1998.

\* Date adjusted for official deadline that falls on a Saturday. (EC §15)

\*\* Date varies based on receipt of county certification.



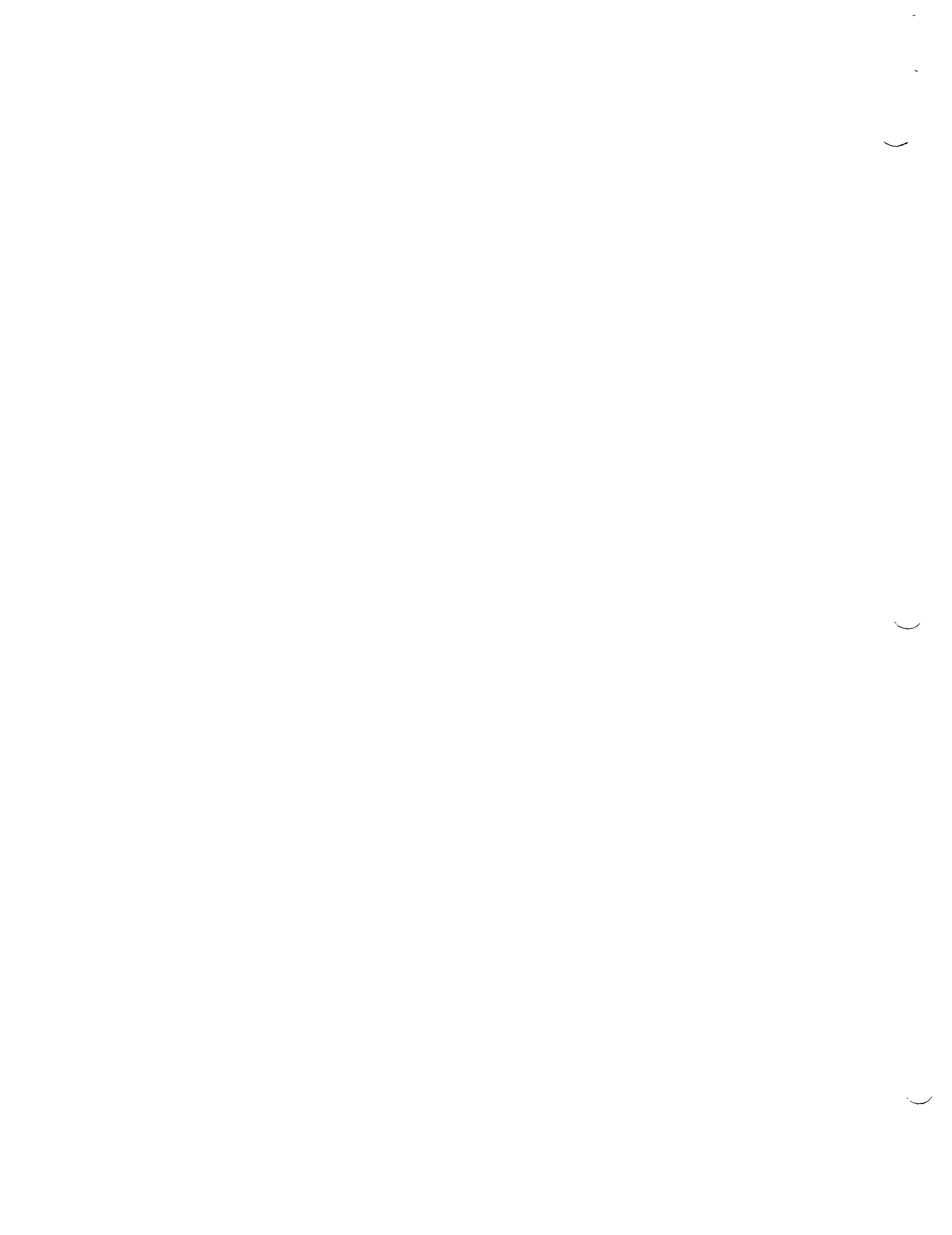


## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation in printing, typing and otherwise preparing your initiative petition for circulation and signatures, Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures



DANIEL E. LUNGREN  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
(916) 445-9555

Facsimile: (916) 323-2137  
(916) 324-5490

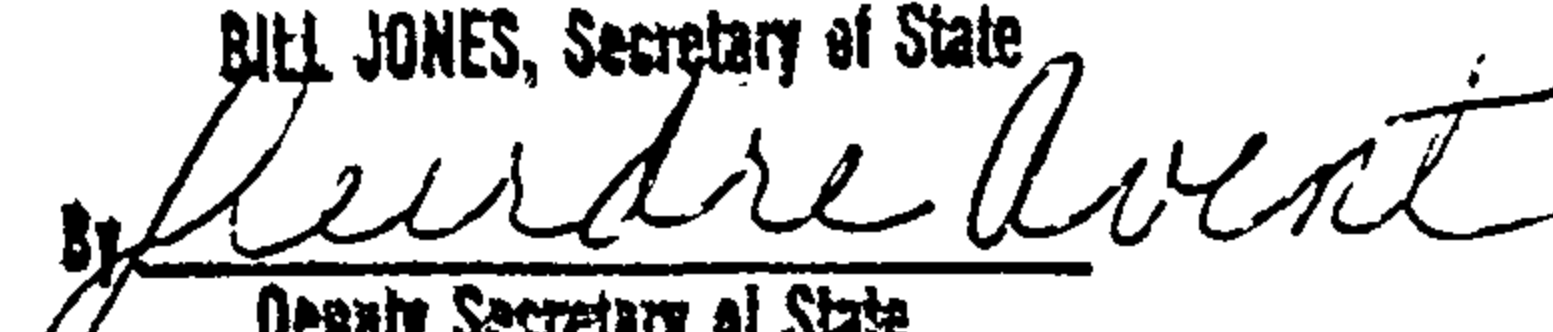
February 11, 1998

Bill Jones  
Secretary of State  
1500 - 11th Street  
Sacramento, CA 95814

FILED  
In the office of the Secretary of State  
of the State of California

FEB 11 1998

Re: Initiative Title and Summary  
Subject: ELECTRIC UTILITIES. ASSESSMENTS. BONDS.  
INITIATIVE STATUTE.  
File No: SA 97 RF 0064

BILL JONES, Secretary of State  
By   
Deputy Secretary of State

Dear Mr. Jones:


Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponents of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

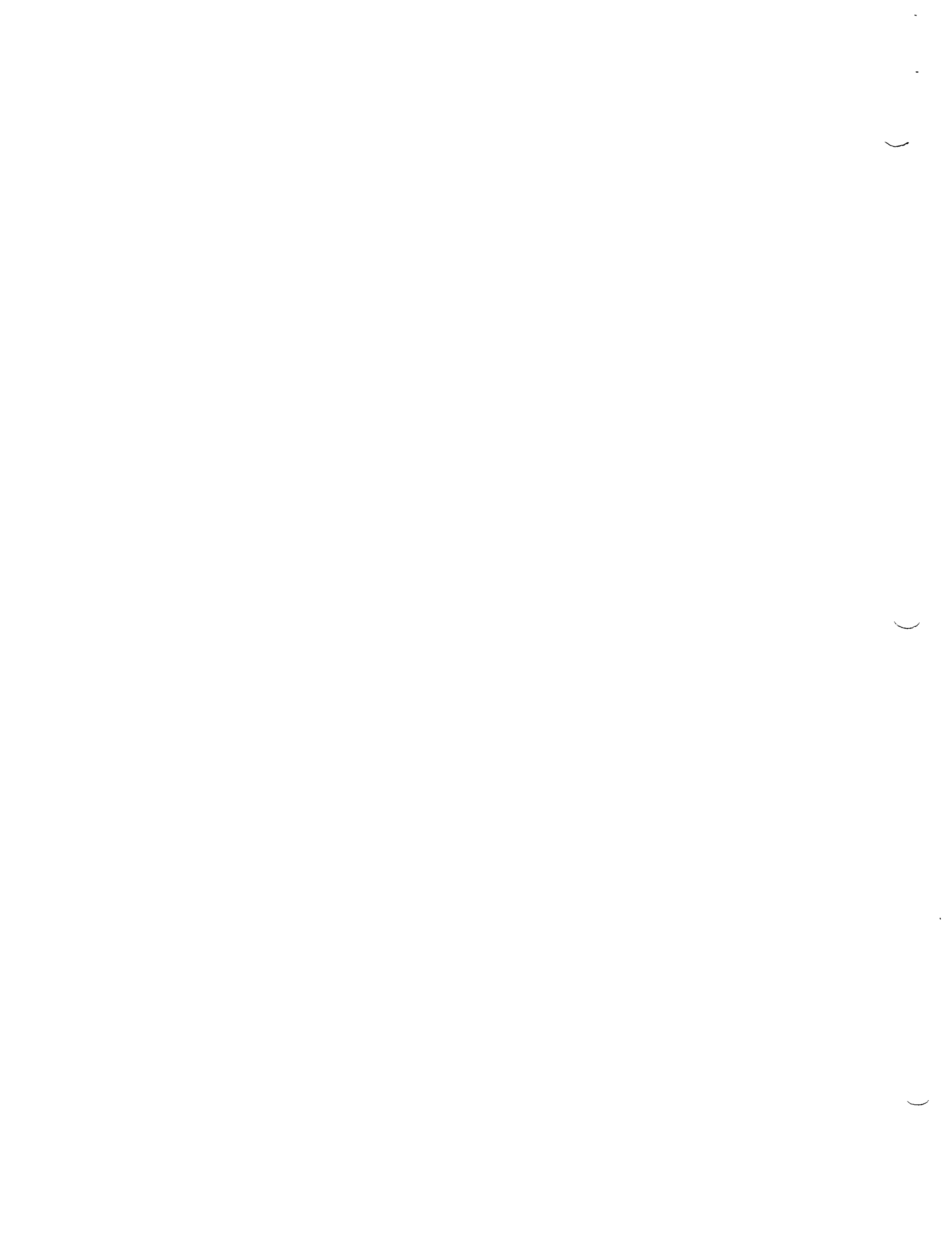
According to information available in our records, the names and addresses of the proponents are as stated on the declaration of service.

Sincerely,

DANIEL E. LUNGREN  
Attorney General

  
CONNIE LEMUS  
Initiative Coordinator

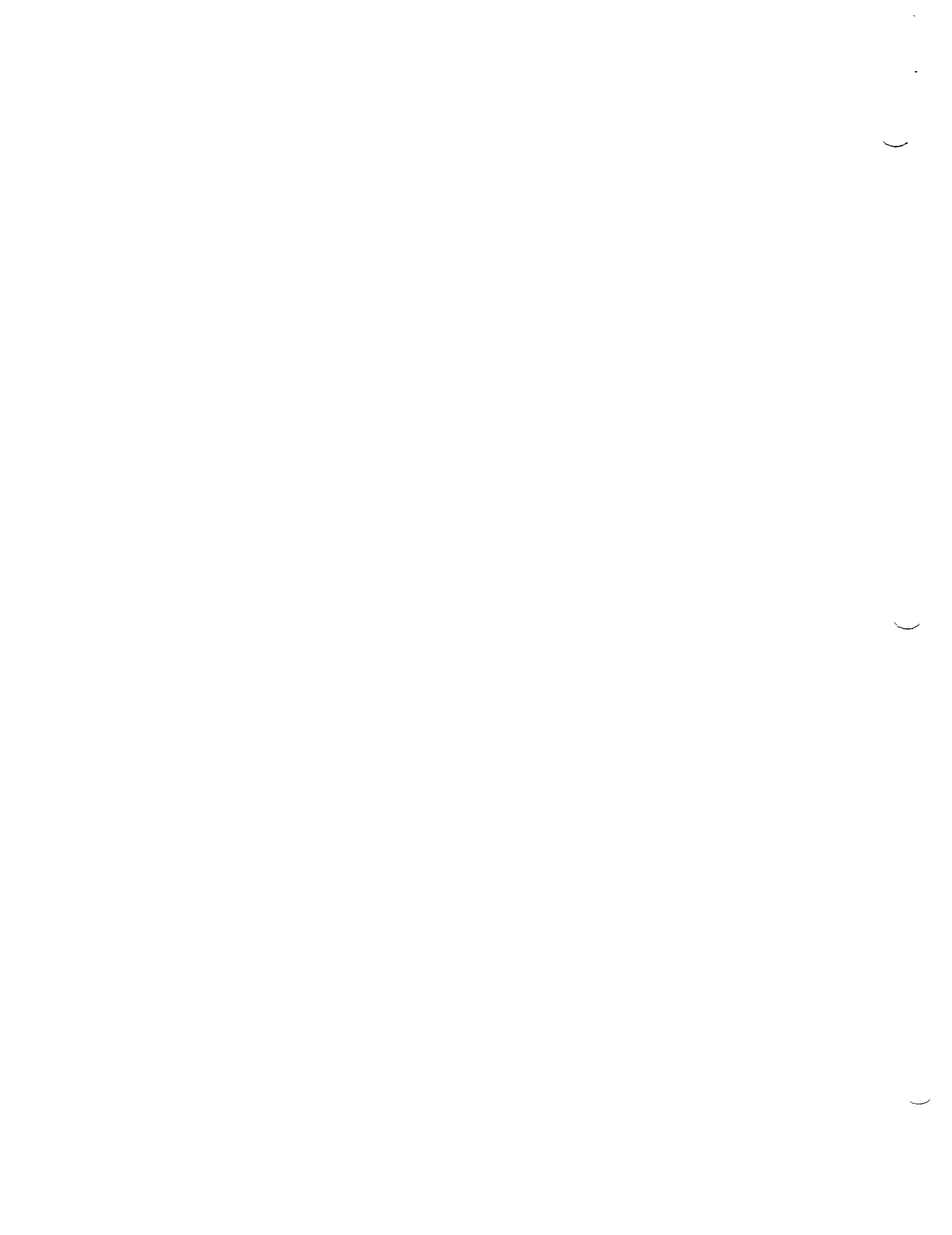
CL:fec  
Enclosures  
cc: Harvey Rosenfield,  
Nettie Hoge, and  
Elisabeth Robinson Gunther



Date: February 11, 1998  
File No.: SA97RF0064

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**ELECTRIC UTILITIES. ASSESSMENTS. BONDS. INITIATIVE STATUTE.** Prohibits assessment of utility tax, bond payments or surcharges for payment of costs of nuclear power plants/related assets. Limits authority of electric companies to recover costs for non-nuclear generation plants. Prohibits issuance of rate reduction bonds and assessments on customers for payment of bond principal, interest and related costs. Provides judicial review of Public Utilities Commission decisions relating to electric restructuring and financing costs by writ of mandate. May provide up to 20% electricity rate reduction for residential and small commercial customers of investor owned utilities by January 1, 1999. Restricts customer information dissemination. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The net impact of the measure on state government revenues would be annual revenue reductions potentially in the range of \$100 million per year from 1998-99 through 2001-02, in turn resulting in decline in the minimum funding guarantee under Proposition 98 for K-14 education by about \$50 million after 2001-02. The state would be required to offset a portion of local school district losses in property taxes, resulting from downward assessments of nuclear facilities. Potential state liability for debt service on \$7 billion in bonds previously issued may result from judicial interpretation of applicability of measure to those bonds. Additional workload may increase state administrative, judicial and legal costs of probably less than \$5 million annually. The net impact on local governments would be revenue reductions, potentially in the tens of millions of dollars annually from 1998-99 through 2001-02. State and local governments would realize savings associated with lower utility rates, in the tens of millions of dollars annually.



December 5, 1997

SA97RF0064  
Amdt. # 1-S

Linda Cabatic, Senior Assistant Attorney General  
Office of the Attorney General  
1300 "I" Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

RECEIVED  
DEC - 9 1997

Re Proposed Initiative No. SA 97 RF 0064  
Amendments to the Proposed Initiative

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear Ms. Cabatic:

The undersigned proponents of Proposed Initiative No. SA 97 RF 0064 hereby request that certain amendments be made to that proposed measure. Pursuant to your letter of November 24, 1997, we submit this amendment package, which includes this request letter with the original signatures of the proponents, and the complete text of the measure as amended.

The following briefly describes the changes that we would make in these amendments:

- Section 368.1(c): The word "the" was added to improve the sentence structure. The proponents do not believe this constitutes a substantive amendment.
- Section 367.1(a): In the last clause, the phrase "from market contracts with the Independent System Operator" was changed to "in contracts with the Independent System Operator." This change was intended to clarify the intent that the nuclear generation-related costs could be collected from ISO revenues whether or not the revenues derive from "market contracts" between the utility and the ISO.
- Section 367.2(a): This subsection was rewritten in order to clarify the original version. The proponents believe that the changes are editorial in nature, and do not effect the substance of this subdivision.
- Section 367.2(b): This subsection was amended in two ways. First, the citation to the existing Public Utilities Code Section was incorrect in the original version; rather than citing Section 381(c)(3), the original cited Section 381(b)(3). Second, the provision was broadened to cover all "qualifying facilities" designated as such pursuant to the federal Public Utility Regulatory Policies Act of 1978 (PURPA). The proponents had intended to have such coverage in this subsection, but inadvertently cited an existing PU Code section that refers only to qualifying facilities that are fueled by renewable resources.
- Section 841.1: The amendment changes the date on which investors are deemed to be on notice to November 24, 1997, the date the proposed initiative was received by the Attorney General's Office. The original contained the date of November 15, 1997.



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-- Section 1701.5(c): The amendment makes clear that the judicial review described in that subsection will occur at the state court of appeals.

In summary, we believe that many of the changes we have submitted are editorial, rather than substantive. However, it seemed prudent to err on the side of caution and provide all of them prior to the December 9, 1997 date specified in your letter.

Thank you for your attention to this matter. Please let us know if there is any further information or clarification that we can provide.

Yours truly,

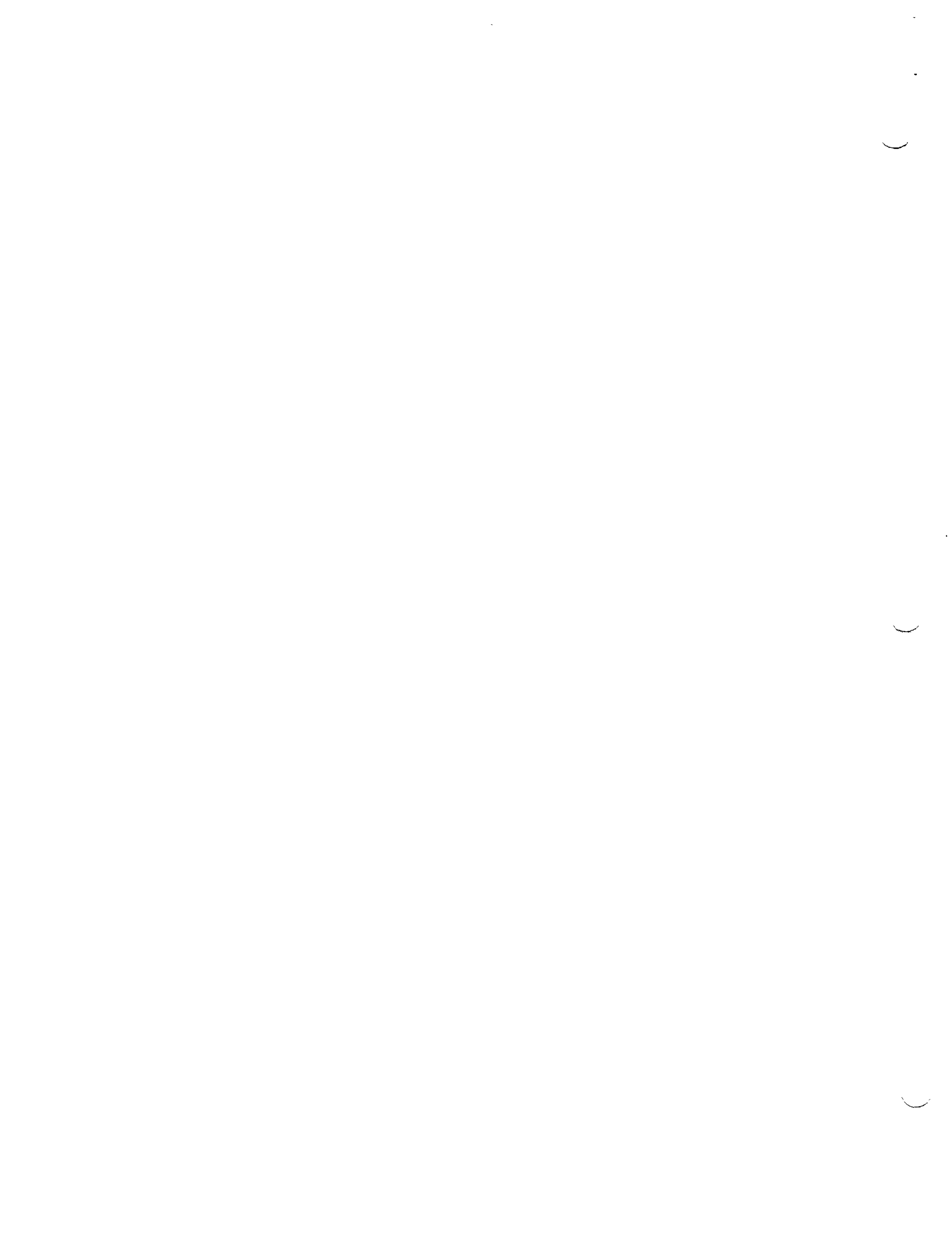
[ORIGINAL SIGNATURE PAGE ATTACHED]

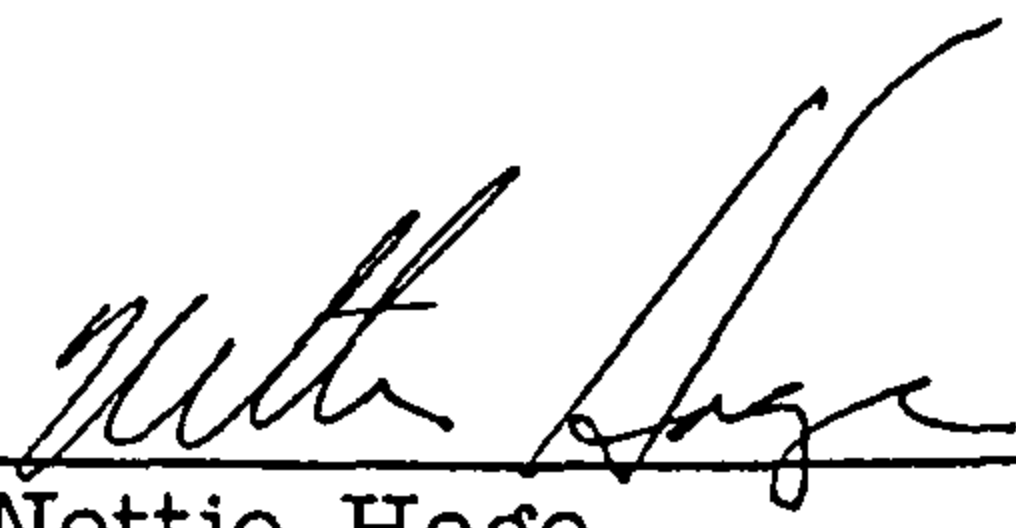
Nettie Hoge  
The Utility Reform Network (TURN)

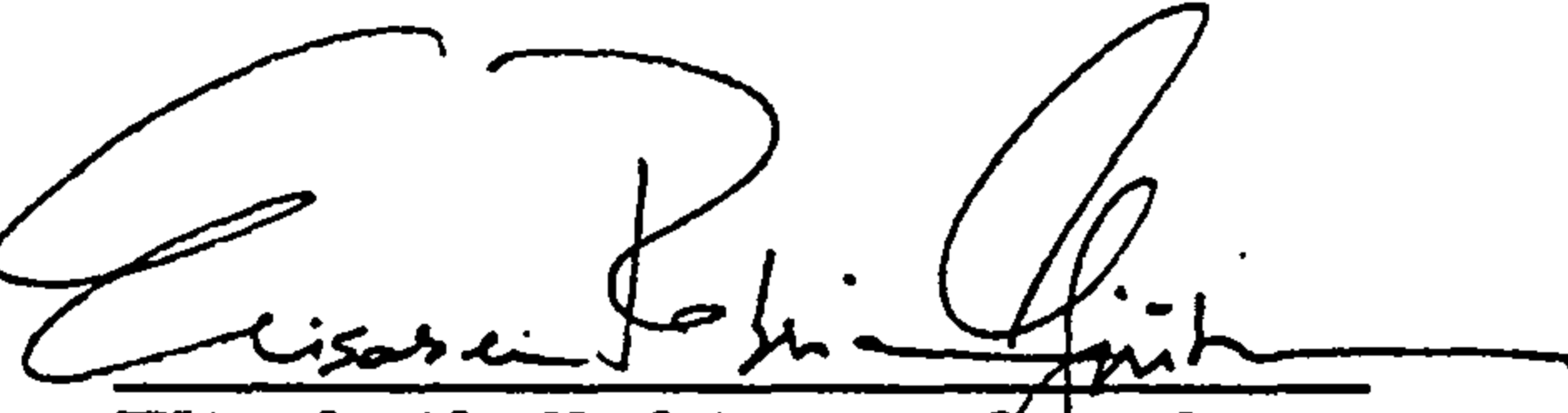
Elisabeth Robinson Gunther  
Public Media Center

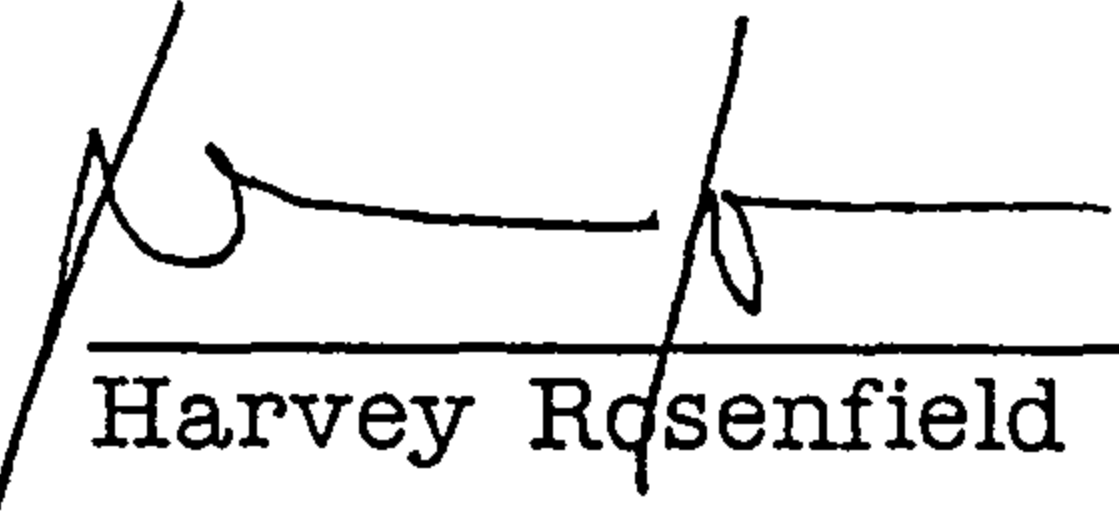
Harvey Rosenfield  
Coalition against Utility Taxes (CUT)

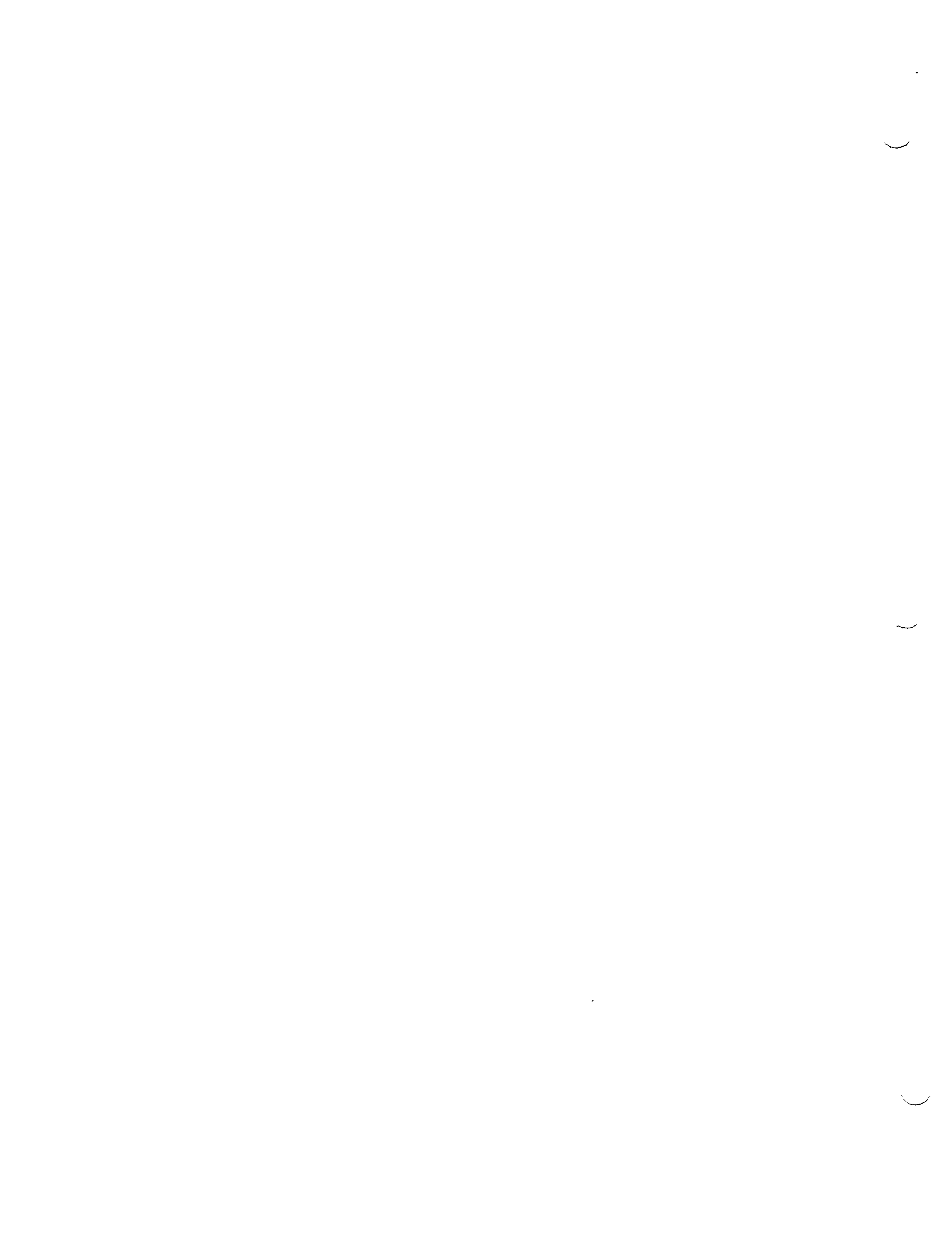
cc: Michelle Olson, Initiative Coordinator



  
\_\_\_\_\_  
Nettie Hoge

  
\_\_\_\_\_  
Elisabeth Robinson Gunther

  
\_\_\_\_\_  
Harvey Rosenfield



# The Utility Rate Reduction and Reform Act

## ***SECTION 1. Findings and Declarations***

The People of California find and declare as follows:

The cost and dependability of California's electric utility service are threatened by a new law that was intended to reduce regulation of electric utility companies in this state.

Any change in the way electricity is sold should benefit all electric utility customers, including residential and small business customers, and should result in a fair and competitive marketplace.

Instead of creating a fully competitive market for electricity, the new law unfairly favors existing electric utility monopolies by forcing customers to pay rates more than 40 percent higher than the market price in order to bail out utilities for their past bad investments.

As a result of this \$28 billion bailout for electric utility companies, the average California household will pay more than \$250 more per year for electricity than they would in a fully competitive market.

Residential and small business customers should not be required to bear the costs of bonds used by utility companies to pay for past bad investments.

It is against public policy for residential and small business customers to be required to pay for the imprudent and uneconomic decisions of electric utility companies to invest in nuclear power plants which the public did not want and which threaten the health and safety of this state.

Under the new law, deregulation of electric utility companies may result in marketing abuses that harm residential and small business customers. Such abuses may include the selling of information about these customers to other companies for profit.

Therefore, the People of California declare that it is necessary to protect residential and small business customers from unfair and unjustified taxes and surcharges that will force them to subsidize electric utility companies. It is also necessary to ensure that residential and small business customers directly benefit from deregulation of electric utility companies.

## ***SECTION 2. Purpose***

The purpose of this chapter is to:

1. Reduce residential and small commercial electricity rates by 20 percent to assure that these customers receive a direct benefit from the transition to the competitive marketplace for electricity.
2. Prohibit taxes, surcharges, bond payments or any other assessment from being added to electricity bills to pay off utility companies' past bad investments in nuclear power plants and other generation-related costs.
3. Prohibit bonds from being used to force residential and small business customers to pay for past bad investments by electric utility companies.
4. Provide for fair and public review of California Public Utilities Commission decisions related to electricity price and services.
5. Protect the privacy of utility customers and provide the information consumers need to obtain low cost and high quality electric service.

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**SECTION 3. *The following Sections are added to the Public Utilities Code:***

**Electric Utility Rate Reduction**

**Section 368.1**

(a) No later than January 1, 1999, electricity rates for residential and small commercial customers shall be reduced so that these customers receive rate reductions of at least 20 percent on their total electricity bill as compared to the rate schedules in effect for these customers on June 10, 1996.

(b) The rate reductions described in subsection (a) shall be achieved through cutting payments to electric corporations for their nuclear and other uneconomic generation costs as described in Sections 367.1 and 367.2.

(c) No utility tax, bond payment, surcharge, or any other assessment in any form shall be levied against any electric utility customer to pay for the rate reductions described in subsections (a) and (b).

**Prohibition Against Utility Taxes, Bond Payments, Surcharges or Any Other Assessments To Pay For Nuclear Power Plants**

**Section 367.1**

(a) Effective immediately, costs for nuclear generation plants and related assets and obligations shall not be paid for by electric utility customers, except to the extent that such costs are recovered by the sale of electricity at competitive market prices as reflected in independent Power Exchange revenues or in contracts with the Independent System Operator.

(b) No utility tax, bond payment, surcharge or other assessment in any form shall be levied against any electric utility customer for the recovery of nuclear costs described in subsection (a).

(c) This section shall not apply to reasonable nuclear decommissioning costs as referenced in Section 379 of the Public Utilities Code.



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**Limitation On Utility Taxes, Bond Payments, Surcharges, and Any Other Assessments To Pay for Electric Utility Company Investments in Non-Nuclear Generation Assets**

**Section 367.2**

(a) Effective immediately, costs for non-nuclear generation plants and related assets and obligations shall not be recovered from electric utility customers under the cost recovery mechanism provided for by sections 367 through 376 of the Public Utilities Code except to the extent that such costs are recovered by the sale of electricity at competitive market rates from independent Power Exchange revenues or from contracts with the Independent System Operator, unless the electric utility first demonstrates to the satisfaction of the Commission at a public hearing that failure to recover such costs would deprive it of the opportunity to earn a fair rate of return..

(b) This section shall not apply to costs associated with renewable non-nuclear electricity generation facilities described in Section 381(c)(3), or to costs associated with power purchases from qualifying facilities pursuant to the Public Utility Regulatory Policies Act of 1978 and related commission decisions.

**Prohibition Against Utility Taxes, Bond Payments, Surcharges and Any Other Assessment To Pay For Securitization Bonds.**

**Section 840.1**

Notwithstanding current Sections 840 through 847 of the Public Utilities Code:

(a) No electric corporation, affiliate of an electric corporation or any other financing entity shall assess or collect any utility tax, bond payment, surcharge or any other assessment authorized by a Public Utilities Commission financing order issued pursuant to Sections 840 through 847 of the Public Utilities Code for the purpose of paying principle, interest or any other costs of any bonds authorized by those sections.

(b) The Public Utilities Commission shall not issue any financing order pursuant to Sections 840 through 847 after the effective date of this measure.

(c) Any electric corporation, affiliate of an electric corporation or any other financing entity which is subject to a financing order issued under Section 841 that is determined by a court of competent jurisdiction to be enforceable despite subsection (a) of this section, shall offset any utility tax, bond payment, surcharge, or other assessment described in subsection (a) collected from any customer with an equal credit to be applied concurrently with the collection of the utility tax, bond payment, surcharge or other assessment.

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## **Section 841.1**

Any underwriter or bond purchaser who purchases rate reduction bonds after November 24, 1997 issued pursuant to current Sections 840 through 847 shall be deemed to have notice of the provisions of Sections 367.1, 367.2, 368.1, and 840.1

## **Public Participation and Judicial Review For Consumer Protection and Electric Company Accountability**

### **Section 1701.5**

(a) Any action or proceeding of the Public Utilities Commission pursuant to Section 367. 1, 367.2, 368.1 and 840.1 of the Public Utilities Code shall require a public hearing where evidence is taken by and discretion is vested in the Public Utilities Commission.

(b) Any change to the amount of above-market costs for non-nuclear generation plants and related assets and obligations being recovered from utility customers shall only be made after the electrical corporation has provided notice to the public pursuant to Section 454 of the Public Utilities Code.

(c) Any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision of the Public Utilities Commission relating to electric restructuring under Chapter 2.3 of Part I of Division 1 of the Public Utilities Code and financing of transition costs as described in Article 5.5 of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code shall be in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure. In any such action the writ of mandate shall lie from the court of appeals to the Public Utilities Commission. The court shall not exercise its independent judgement but shall only determine whether the determination, finding or decision of the Public Utilities Commission is supported by substantial evidence in light of the whole record.

## **Electric Utility Customer Privacy Protection**

### **Section 394.1**

The confidentiality of residential and small commercial customer information shall be fully protected as provided by law. No entity providing electricity services including an electric corporation shall provide information about a residential or small commercial customer to any third party without the express written consent of the customer.



## Electric Utility Customer Information

### Section 393

The Public Utilities Commission shall require each electric utility or electric service provider to provide such information or materials with each utility bill issued to residential and small commercial customers as the Commission determines to be necessary to assist consumers in obtaining low cost, high quality electric service options, including electric service options that reduce environmental impacts such as those that rely on renewable energy sources and to protect consumers' interest in all matters concerning safe and dependable delivery of electric service.

#### Definitions

##### Section 330.1 Definitions of Charges

(a) "Utility tax" "bond payments" "surcharge", "assessment" or "involuntary payment" mean any charge that serves to permit an electric corporation to recover the value of uneconomic assets from ratepayers, and includes but is not limited to a "fixed transition amount" as defined by Section 840(d), and the "competition transition charge" that is the nonbypassable charge referred to in Sections 367 to 376, inclusive.

(b) For purposes of Sections 330.1, 367.1, 367.2, 368.1, 393, and 840.1, the terms "electric utility", "electric utility company", and "electric corporation" have the same meaning as the term "electrical corporation" as defined in Section 218 of the Public Utilities Code.

#### Repeal of Existing Law

Sections 367(a), 368(d), 368(h) of the Public Utilities Code are repealed

### ***SECTION 4. Initiative Integrity***

(a) This act shall be broadly construed and applied in order to fully promote its underlying purposes, and to be consistent with the United States Constitution and the Constitution of the State of California. If any provision of this initiative conflicts directly or indirectly with any other provisions of law, including but not limited to the cost recovery mechanism provided for by Sections 367 through 376 of the Public Utilities Code, or any other statute previously enacted by the Legislature, it is the intent of the voters that those other provisions shall be null and void to the extent that they are inconsistent with this initiative and are hereby repealed.

(b) No provision of this act may be amended by the Legislature except to further the purpose of that provision by a statute passed in each house by roll call vote entered in the journal, two thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate. No amendment by the Legislature shall be deemed to further the purposes of this act unless it furthers the purpose of the specific provision of this act that is being amended. In any judicial action with respect to any legislative amendment, the court shall exercise its independent judgment as to whether or not the amendment satisfies the requirements of this subsection.



(c) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not effect other provisions or applications of the act that can be given effect in the absence of the invalid provision or application. To this end, the provisions of this act are severable.

(d) It is the will of the People that any legal challenges to the validity of any provision of this act be acted upon by the courts upon an expedited basis.



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