

CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Resolution in Opposition to Proposition 9 - Utility Rate Reduction and Reform Act

MEETING DATE: August 19, 1998

SUBMITTED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt the attached resolution stating their opposition to Proposition 9 which will appear on the November 1998 ballot.

BACKGROUND: In 1996 representatives of the Electric Utility Department, in conjunction with representatives of other municipal utilities, participated in negotiations which resulted in the passage of Assembly Bill 1890 which was signed by Governor Wilson in September 1996. AB 1890 provided a blueprint for transitioning California's electric market to the competitive marketplace. One provision of AB 1890 provided for the sale of \$6 billion of bonds by investor-owned utilities (IOUs) to finance a 10% rate decrease for their residential and small commercial customers. Proposition 9 proposes to invalidate the section of AB 1890 which permits the IOUs to recover their financing costs from the beneficiaries of the financing, while at the same time proposing to give the same customers an additional rate reduction. If this happens, it is likely that the State of California, and ultimately California taxpayers, will be required to repay the bondholders. **This means that all California taxpayers, including those who are customers of municipal utilities such as Lodi, would be required to repay those costs, even though they would not benefit from the initiative's promised rate reduction.**

If a simple vote of the electorate can stop repayment to bondholders, it will be almost impossible to find anyone to purchase our bonds in the future. The next time that the City of Lodi or the school district attempts to sell bonds to finance construction of a new fire station or a school, it may not be possible to find any buyers. **The Proposition 9 proposal could also make it extremely difficult for government agencies to access capital markets in the future.**

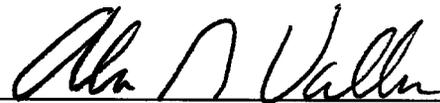
If Proposition 9 is enacted, it is likely that the State Legislature will redraft their plan to open California's electric market. Under the original plan, municipal utilities such as the City of Lodi were given a great deal of discretion as to when and how to open their electric market. There is no guarantee that we would retain that authority in a redrafted plan. **The City Council's regulatory authority could be severely eroded.**

Organizations opposed to Proposition 9 represent a broad spectrum of interests. They include the California Chamber of Commerce, the Environmental Defense Fund, California Teachers Association, California School Boards Association, California Taxpayers' Association, California Farm Bureau Federation, and the California Organization of Police and Sheriffs. These and many more organizations are concerned about the initiative's negative economic impact on the State of California. The California Municipal Utilities Association, as well as, PG&E, has requested that the City of Lodi take an opposition position to this initiative. Attached is an Electric Utility analysis, as well as, a copy of Proposition Initiative.

FUNDING: None required

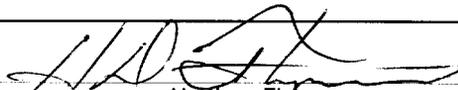
Prepared by: Nancy Bougher, Sr. Electric Utility Rate Analyst

ANV/NB/1st
c: City Attorney



Alan N. Vallow
Electric Utility Director

Approved _____



H. Dixon Flynn
City Manager



m e m o r a n d u m

TO: Alan Vallow
FROM: Nancy Bougher *NB*
DATE: 7/24/98
SUBJECT: TURN Initiative - Proposition 9

Campaign advertising for and against Proposition 9, the TURN Utility Rated Reduction and Reform Act, is expected to begin soon . As you are aware, CMUA joined with the three IOUs, the California School Boards Association and other groups in a judicial challenge to this measure. The initial challenge lost, but if the initiative passes it will surely be renewed. Lodi EUD needs to decide what role we want to play in educating our customers about this initiative and its effect on Lodi and Lodi electric customers.

To summarize, the initiative would 1) severely limit the amount that IOUs could collect in stranded costs related to nuclear power plants; 2) prohibit IOUs from collecting from customers for payment of rate reduction bonds; 3) provide for a 20% rate decrease (compared to June 1996) effective 1/1/99; 4) provide for expedited judicial review of CPUC decision related to restructuring and financing costs; and 5) restrict dissemination of customer information. It is likely that portions of the initiative would be found unconstitutional, but other sections will likely pass judicial scrutiny. It is also possible that the State could be required to repay the rate reduction bonds, or at least the interest. If this happens, all California residents, including customers of municipal utilities, would likely share in this payment.

SECRETARY OF STATE**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 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.

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Original signed by

Secretary of State Bill Jones

on 6/24/98.

TURN Initiative

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.

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.

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.

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 invested 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 I 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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RESOLUTION NO. 98-126

A RESOLUTION OF THE LODI CITY COUNCIL
OPPOSING PROPOSITION 9, UTILITY RATE
REDUCTION AND REFORM ACT

WHEREAS, Proposition 9, the 1998 Utility Rate Reduction and Reform Act, proposes to make significant changes in the State of California's plan to transition to a competitive electric market in the State; and

WHEREAS, the City Council has determined that Proposition 9 would be potentially costly to the residents and business owners of Lodi; and

WHEREAS, the City Council has determined that Proposition 9 could jeopardize the City's regulatory authority in managing the Lodi Electric Utility Department.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi, opposes Proposition 9, the 1998 Utility Rate Reduction and Reform Act.

Dated: August 19, 1998

I hereby certify that Resolution No. 98-126 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 19, 1998, by the following vote:

AYES: COUNCIL MEMBERS - Johnson, Land, Mann, Pennino and
Sieglock (Mayor)

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None

ABSTAIN: COUNCIL MEMBERS - None

for Jennifer M. Terun
ALICE M. REIMCHE
City Clerk



FACSIMILE COVER SHEET

CITY CLERK'S OFFICE
221 WEST PINE STREET - P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
PHONE (209) 333-6702 FAX (209) 333-6807

DATE: August 25, 1998

FROM: Jennifer M. Perrin
Deputy City Clerk

TO: Phil Pennino

COMMENTS: Attached are the two forms regarding Proposition 9. If there is any thing else I can do, let me know.

THIS TRANSMITTAL CONTAINS 4 PAGE(S), INCLUDING THIS COVER SHEET.

Californians For Affordable and Reliable Electric Services

Individual Member Form

I oppose the 1998 Electric Utility Proposition, a measure that may appear on the November 3 statewide ballot. You may list me publicly as a member of the official coalition being organized to oppose passage of this proposition.

Jack A. Sieglock

Name (please print)

Jack A. Sieglock
Signature

Mayor

Current title or occupation**

City of Lodi

Organization or company (i.e., employer)

P.O. Box 3006

Mailing address

Lodi
City

CA
State

95241-1910
Zip

San Joaquin
County

(209) 333-6702
Phone number

(209) 333-6807
Fax number

8/21/98
Date signed

On the lines below, please list any other notable current or former titles or affiliations you may have, including other job titles, organizational positions, awards, etc.

Other current or former titles or affiliations**

Other current or former titles or affiliations**

** Titles and affiliations are for identification purposes only and will be indicated as such on any published lists.

Please mail this completed form to:

**Californians For Affordable and Reliable Electric Services
1121 L Street, Suite 401
Sacramento, CA 95814
Or fax to: (916) 341-1081**

Californians For Affordable and Reliable Electric Services

Organization Member Form

Our organization opposes the 1998 Electric Utility Proposition, a measure that may appear on the November 3 statewide ballot. You may list our organization publicly as a member of the official coalition being organized to oppose passage of this measure.

City of Lodi

Name of organization

P.O. Box 3006

Mailing address

Lodi CA 95241-1910 San Joaquin
City State Zip County

Jack A. Sieglock Mayor
Name of officer signing (please print) Title of person signing**

Signature of officer 8/21/98

389 389
Number of members in your organization Approximate number of jobs your members provide in California

Alice M. Reimche (209) 333-6702
Contact person to call at your organization Daytime phone number of contact person

(209) 333-6807
Daytime fax number of contact person

** Titles and affiliations are for identification purposes only and will be indicated as such on any published lists.

Please check the applicable boxes below:

- YES! Our organization is willing to help in other ways. Call the contact person designated above to let us know what we can do to help oppose this proposition.
YES! In addition to listing our organization as a member, please add my name (i.e., the signing officer) to the list of individual members.

Please mail this completed form to:

Californians For Affordable and Reliable Electric Services
1121 L Street, Suite 401
Sacramento, CA 95814
Or fax to: (916) 341-1081

ABOUT SIGNING THE MEMBER FORM

Thank you for signing this form to show that you oppose the 1998 Electric Utility Proposition. It's one of the most important ways you can help our campaign. Here's some information you may want to know.

1. Signing the form simply confirms that you may be listed publicly on lists of people, businesses and organizations who are members of the official coalition being formed to oppose passage of the 1998 Electric Utility Proposition. This is the only position and the only issue with which your name will be associated.
2. Lists of members may be used in association with materials such as fact sheets, brochures, letterheads and possibly in advertisements about the measure. All statements in such materials will be based on verifiable facts and information, and all publications and activities of the official coalition will be conducted in strict compliance with all relevant state laws and regulations.
3. All lists of members will note that titles and affiliations are for identification purposes only.
4. Signing the opposition form does not obligate you to contribute time or money to our campaign, or attend any meetings or make any public statements. Members are welcome to become more actively involved in the campaign. However, any further involvement beyond being listed as an opposer is entirely voluntary.