



## CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

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Renée Webster-Hawkins

October 23, 2014

### **California Pollution Control Financing Authority Rate Reduction Bonds Notice of Emergency Regulations**

The California Pollution Control Financing Authority (CPCFA) organized and operating pursuant to Sections 44500 through 44563 of the California Health and Safety Code proposes to adopt the proposed regulations after considering all comments, objections, and recommendations regarding the proposed action.

CPCFA proposes to adopt Article 12 Sections §8130-8138, of Title 4 of the California Code of Regulations (the "Proposed Regulations") concerning the review of the issuance of rate reduction bonds to be administered by the California Pollution Control Financing Authority's Bond Program (the "Program"). These regulations are anticipated to be adopted by the Office of Administrative Law on an emergency basis by November 10, 2014.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency regulation action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency regulations to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency rule. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for one hundred and eighty (180) days. Within the 180-day effective period, CPCFA will proceed with regular rulemaking action, including a public comment period. The emergency regulations will remain in effect during this rulemaking action.

In accordance with its authority under Health and Safety Code Section 44520(b), the California Pollution Control Financing Authority is proposing to adopt the regulations as emergency regulations. Attached to this Notice is the specific regulatory language of CPCFA's proposed emergency action and Finding of Emergency. You may also review the proposed regulatory language and Finding of Emergency on CPCFA's website at the following

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address: [http://www.treasurer.ca.gov/cpcfa/tax\\_exempt.asp](http://www.treasurer.ca.gov/cpcfa/tax_exempt.asp). If you prefer to receive a hard copy of the proposed emergency regulation please contact Andrea Gonzalez at (916) 651-7284 and a copy will be provided at no cost.

The regulations were presented to the CPCFA Board for approval at a public meeting held on October 21, 2014 at 10:30 A.M. in Rm. 587 of the Jesse M. Unruh Building, 915 Capitol Mall, Sacramento, CA 95814.

Sincerely,



Renee Webster-Hawkins  
Executive Director

Enclosure(s): Proposed Text of Regulations  
Finding of Emergency

cc: Sherri Kay Wahl, Deputy Executive Director  
Jade Turner-Bond, CPCFA Legal Counsel  
Patricia Tanous, Treasury Program Manager II  
Doreen Smith, Bond Program Manager

RWH: ag

# **FINDING OF EMERGENCY**

## **CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**

Title 4, Division 11

### **Finding of Emergency**

Pursuant to Section 6588.7(b)(7), the regulations being adopted herewith by the California Pollution Control Financing Authority (the “Authority”) as emergency regulations (the “Emergency Regulations”) are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare.

### **Necessity**

These Emergency Regulations are necessary to implement, interpret and make specific the adoption of Article 12 by establishing procedures that will enable the Authority to review the issuance of rate reduction bonds as authorized by Section 2 of Assembly Bill 850 (AB 850 (Nazarian), Chapter 636, Statute of 2013).

### **Authority and Reference**

Authority: Government Code Section 6588.7(b)(7). Section 6588.7(b)(7) of the Government Code authorizes the Authority to adopt emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.”

Reference: Government Code Division 7, Chapter 5. This regulation will make specific Sections 6585 through 6599.3 of the Government Code.

### **Informative Digest**

Existing law establishes the California Pollution Control Financing Authority and authorizes the Authority to develop and administer procedures to review the issuance of rate reduction bonds pursuant to Government Code Section 6588.7(b)(7).

Assembly Bill 850 [AB 850 (Nazarian) Chapter 636, Statutes of 2013] authorizes joint power authorities to issue rate reduction bonds to finance publicly owned utility projects until December 31, 2020. The bonds are to be secured by utility project property and repaid through a separate utility project charge imposed on the utility customers’ bills. While the bonds are issued by the local joint power authorities, AB 850 includes an additional state review process by the CPCFA.

Assembly Bill 850 requires CPCFA to review each issue of rate reduction bonds for financing costs of a utility project and to determine whether the issue is qualified for issuance under the provisions of the statute (Government Code, section 6588.7(b)(2)(A)-(B)). CPCFA is

also required to establish procedures, adopt emergency regulations with the OAL, and report these review determinations to the Legislature annually.

An issue is qualified if four main factors are satisfied. First, the project to be financed must meet statutory criteria. The second criterion requires that the municipal utility elects to finance the project pursuant to the statute. The third criterion states that the financing costs shall fall within the normal range of costs for comparable types of debt issuance. Lastly, the rates of the utility plus new charge are collectively expected to be lower than the utility rates would be if the project was financed through the issuance of utility's own revenue bonds.

On August 15, 2014, CPCFA staff posted the AB 850 webpage that provided the program implementation plan, the full text of AB 850, proposed draft regulations and contact information. This posting began a 30-day comment period where stakeholders could propose comments to the draft regulations. CPCFA received comments from one stakeholder and incorporated some of them into revised draft regulations. CPCFA staff also hosted a workshop on October 14, 2014 to discuss the revised draft regulations before presenting them to the CPCFA board. The public will be able to further comment during the OAL Regulatory Process.

This adoption is the result of periodic evaluation. This proposed amendment to the CPCFA Regulations is consistent and compatible with the existing state regulations. The proposed amendment and objective is stated below.

**The Proposed Amendments and Objectives for Each Section are as Follows:**

**8130. Applicability.**

This section clearly states that this Article shall apply to the Authority's review of the issuance of rate reduction bonds pursuant to Section 6588.7 of the Government Code.

Necessity. This section is necessary to indicate that Article 12 applies to the review of the issuance of rate reduction bonds.

**§ 8131. Definitions.**

This section clearly defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Necessity. The proposed definitions are necessary to clarify the existing statutory language and other terms used throughout the regulations.

**§ 8132. Applications for Review.**

This section clearly states that the Authority will accept applications from the applicant for review in a form approved by the Executive Director. The application will be made available at the Authority office and on its website.

Necessity. This section is necessary to describe the process of obtaining an application.

### **§ 8133. Application Fees.**

This section describes the application fee which must accompany each application submitted. The application fee provides for the review and processing of each application and is nonrefundable. This section also states that the Authority may charge additional fees to cover any additional expenses at the discretion of the Executive Director.

Necessity. The application fee is necessary to cover the Authority's reasonable costs of administering the review of rate reduction bonds.

### **§ 8134. Application Content.**

This section describes the contents of a completed application. For an application to be deemed complete, the applicant must submit information concerning the issuer applicant, the local agency applicant, information concerning the utility project, as well as information concerning the projected financing costs for the proposed rate reduction bond financing. This section clearly states the evidence that is required to meet each of the criteria.

Necessity. A clear description of the application information is necessary to clarify the application contents and evidence that must be provided in order for the Authority to determine whether the issue is qualified for issuance under the provisions of the statute (Government Code, section 6588.7(b)(2)(A)-(B)).

### **§ 8135. Authority Action.**

This section clearly states that the Authority will accept applications from the issuer applicant for review in a form approved by the Executive Director. The Authority will have 10 business days to inform the applicant whether the application is complete and, if not, what additional documentation or information is required. Once the applicant has submitted the supplemental information or documentation, the Authority will have 7 business days to inform the applicant whether the application is complete and, if not request additional information. The Authority will take action on any completed Application no later than the next board meeting that occurs after at least 60 days following the determination by the Authority that the application is complete. An applicant can withdraw an application any time without penalty or prejudice; however there is a nonrefundable application fee.

Necessity. This section is necessary to specify the actions to be taken by the Authority when an issuer application submits an application for review.

### **§ 8136. Application Approval.**

This section clearly states that in order for the Authority to determine that the issue is qualified for issuance, the application provided must contain evidence that it meets all of the criteria. The Authority will provide an explanation in writing for any refusal to qualify a proposed issuance.

Necessity. A thorough description of the criteria is necessary to clearly state how the Authority will determine if an issue is qualified for issuance pursuant to Government Code Section 6588.7. The Authority is also required to provide the issuer applicant with a written explanation for any refusal to qualify a proposed issuance pursuant to Government Code Section 6588.7(b)(7).

### **§ 8137. Reports.**

This section provides the information that must be submitted by each issuer applicant whose application was approved by the Authority within 10 business days following the issuance of any rate reduction bonds. This section also states that annually before March 31, the Authority is required to submit a report to the Legislature of its activities for the proceeding calendar year ended on December 31. The Executive Director is also authorized to seek the information required in this section from the issuer applicant in regards to any application submitted for the Authority to review.

Necessity. The Authority will require information from the issuer applicant in order to submit an accurate report to the Legislature. The Authority is required to submit an annual report pursuant to Government Code Section 6588.7(b).

### **§ 8138. Sunset.**

This section clearly describes that with the exception of Section 8137, these regulations shall expire upon the termination of the authority to issue rate reduction bonds. Section 8137 will expire when the Authority submits the final report to the Legislature.

Necessity. This section is necessary to clearly state the expiration of these regulations when the authority to issue rate reduction bonds terminate pursuant to Government Code Section 6588.7(k).

### **Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations**

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

### **Mandate on Local Agencies or School Districts**

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

### **Fiscal Impact**

The Executive Director of the Authority has determined that the Emergency Regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any

cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.

## **PROPOSED TEXT OF REGULATIONS**

### **Title 4. Business Regulations** **Division 11. California Pollution Control Financing Authority** **Article 12. Rate Reduction Bonds**

#### **§ 8130. Applicability.**

This Article 12 shall apply to the Authority's review of the issuance of Rate Reduction Bonds pursuant to Section 6588.7 of the Government Code.

Note: Authority cited: Sections 6588.7(b)(3) and 6588.7(b)(7), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6588.7(b), Article 4, Chapter 5, Division 7, Title 1, Government Code.

#### **§ 8131. Definitions.**

The following definitions shall govern construction of this Article 12.

- (a) "Application" means an application submitted by an Issuer Applicant to the Authority for review of its proposed Rate Reduction Bonds issuance.
- (b) "Authority" means the California Pollution Control Financing Authority.
- (c) "Conservation or Reclamation Purposes" is defined in Section 6585(d) of the Government Code.
- (d) "Financing Costs" is defined in Section 6585(g) of the Government Code.
- (e) "Issuer Applicant" means an entity created pursuant to Article 1, Chapter 5, Division 7, Title 1 of the Government Code (commencing with Section 6500) whose financing activities are limited to financing Utility Projects and projects for the use or benefit of public water agencies and which applies to the Authority for review and approval of an issuance of Rate Reduction Bonds.
- (f) "Legislative Body" is defined in Section 6585(i) of the Government Code.
- (g) "Local Agency" is defined in Section 6585(j) of the Government Code.
- (h) "Local Agency Applicant" means a Local Agency that owns and operates a Publicly Owned Utility and which applies to an Issuer Applicant to finance costs of a Utility Project for the Publicly Owned Utility with the proceeds of Rate Reduction Bonds and whose senior lien unenhanced revenue bonds payable from revenues of the Publicly Owned Utility are, or upon issuance would be, rated not lower than Baa3 by Moody's Investors Service, BBB- by Standard & Poor's Ratings Services, or BBB- by Fitch Ratings, Inc.

- (i) “Mandate” is defined in Section 6585(k) of the Government Code.
- (j) “Mandating Entity” is defined in Section 6585(l) of the Government Code.
- (k) “Publicly Owned Utility” is defined in Section 6585(o) of the Government Code.
- (l) “Rate Reduction Bonds” mean bonds that are issued by an Issuer Applicant, the proceeds of which are used directly or indirectly to pay or reimburse a Local Agency or its Publicly Owned Utility for the payment of the costs of a Utility Project, and that are secured by a pledge of, and are payable from, Utility Project Property as provided in Government Code Section 6588.7.
- (m) “Utility Project” is defined in Section 6585(r) of the Government Code.
- (n) “Utility Project Charge” is defined in Section 6585(s) of the Government Code.
- (o) “Utility Project Property” is defined in Section 6585(t) of the Government Code.

Note: Authority cited: Sections 6588.7(b)(3) and 6588.7(b)(7), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6585, Article 4, Chapter 5, Division 7, Title 1, Government Code

### **§ 8132. Applications for Review.**

The Authority will accept Applications from Issuer Applicants for review in a form approved by the Executive Director. Application forms may be obtained from the Authority office located in the City of Sacramento. The Authority may also make Applications available on its website <http://www.treasurer.ca.gov/cpcfafa/>.

Note: Authority cited: Sections 6588.7(b)(3) and 6588.7(b)(7), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6588.7(b), Article 4, Chapter 5, Division 7, Title 1, Government Code.

### **§ 8133. Application Fees.**

A check drawn on, or a wire transfer from, a responsible bank or trust company in the amount of \$10,000, shall be made payable to “CPCFA Fund” and shall accompany each Application. At the discretion of the Executive Director, the Authority may charge additional fees to cover any additional direct expenses that may be incurred by the Authority. Such fees provide for review and processing of the Application and are nonrefundable.

Note: Authority cited: Section 6588.7(b)(3), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference Section 6588.7(b)(3), Article 4, Chapter 5, Division 7, Title 1, Government Code.

**§ 8134. Application Content.**

The Application shall contain all of the following.

- (a) Information concerning the Issuer Applicant:
  - (1) Name, address, phone number and email address of contact person for Issuer Applicant.
  - (2) Copies of the following documents:
    - (i) Issuer Applicant's joint exercise of powers agreement indicating the provisions therein which qualify the Issuer Applicant to issue Rate Reduction Bonds and certified by the chair, executive director, secretary or other authorized officer of the Issuer Applicant;
    - (ii) Issuer Applicant's by-laws, rules or other similar document certified by the chair, executive director, secretary or other authorized officer of the Issuer Applicant; and
    - (iii) Issuer Applicant's Notice of Agreement and any Notice of Amendment filed with the Secretary of State.
  - (3) Certificate from the chair, executive director or other authorized officer of the Issuer Applicant to the effect that the Issuer Applicant's joint exercise of powers agreement limits the financing activities of the Issuer Applicant to financing Utility Projects and projects for the use or benefit of public water agencies.
- (b) Information concerning the Local Agency Applicant:
  - (1) Name, address, phone number and email address of contact person for Local Agency Applicant.
  - (2) Evidence the Local Agency Applicant is, or owns and operates, a Publicly Owned Utility. Such evidence may consist of:
    - (i) Certificate from the chair, mayor, chief executive officer, general manager, assistant general manager, executive director or other authorized officer of the Local Agency Applicant to the effect that the Local Agency Applicant is, or owns and operates, a Publicly Owned Utility furnishing water service to not less than 25,000 retail customers; or
    - (ii) Copy of charter documents establishing that the utility is a Publicly Owned Utility owned and operated by, or is a department or other subdivision of, the Local Agency Applicant certified by the chair, mayor, chief executive officer, general manager, assistant general manager, executive director or other authorized officer of the Local Agency Applicant, as well as the certification of such officer to the effect that such

Publicly Owned Utility is furnishing water service to not less than 25,000 retail customers.

- (3) Evidence that senior lien unenhanced revenue bonds payable from the revenues of the Publicly Owned Utility owned or operated by Local Agency Applicant are, or upon issuance would be, rated not lower than Baa3 by Moody's Investors Service, BBB- by Standard & Poor's Ratings Services, or BBB- by Fitch Ratings, Inc. Such evidence may consist of:
  - (i) Current rating reports from one or more of the aforementioned rating agencies; or
  - (ii) A report of an independent investment banker or financial consultant concluding, based on an analysis of other Publicly Owned Utilities of comparable size, financial metrics, debt service coverage ratios, management experience and credit quality, that senior lien unenhanced bonds payable from the revenues of the Publicly Owned Utility upon issuance would be rated not lower than Baa3 by Moody's Investors Service, BBB- by Standard & Poor's Ratings Services, or BBB- by Fitch Ratings Inc.
- (4) Resolutions, ordinances or other official actions of the Legislative Body of the Local Agency Applicant, adopted at public meetings held with all proper notice and at which a quorum was present and acting throughout, certified by the chair, president or other presiding officer of such Legislative Body and evidencing the determination by the Legislative Body of the Local Agency Applicant that:
  - (i) The project to be financed with the proceeds of the sale of Rate Reduction Bonds is a Utility Project;
  - (ii) The Local Agency Applicant is electing to finance costs of the Utility Project pursuant to Section 6588.7 of the Government Code and the Financing Costs associated with the financing are to be paid from Utility Project Property, including the Utility Project Charge for the Rate Reduction Bonds issued for the Utility Project in accordance with Section 6588.7 of the Government Code; and
  - (iii) Based on information available to, and projections used by, the Legislative Body of the Local Agency Applicant, the rates of the Publicly Owned Utility plus the Utility Project Charge resulting from the financing of the Utility Project with Rate Reduction Bonds are expected to be lower than the rates of the Publicly Owned Utility if the Utility Project was financed with bonds payable from the revenues of the Publicly Owned Utility.
- (5) Evidence that the Legislative Body of the Local Agency Applicant had a reasonable basis on which to make the findings and determinations set forth in Section (b)(4) above. Such evidence may consist of:

- (i) A report of an independent certified consulting engineer setting forth the principal facts, assumptions, projections, variables and calculations and concluding that:
  - a. The Project to be financed with the proceeds of the sale of Rate Reduction Bonds is a Utility Project; and
  - b. The rates of the Publicly Owned Utility plus the Utility Project Charge resulting from the financing of the Utility Project with Rate Reduction Bonds are expected to be lower than the rates of the Publicly Owned Utility if the Utility Project was financed with bonds payable from the revenues of the Publicly Owned Utility; or
- (ii) A report of the chief engineer of the Publicly Owned Utility setting forth the principal facts, assumptions, projections, variables and calculations and concluding that:
  - a. The Project to be financed with the proceeds of the sale of Rate Reduction Bonds is a Utility Project; and
  - b. The rates of the Publicly Owned Utility plus the Utility Project Charge resulting from the financing of the Utility Project with Rate Reduction Bonds are expected to be lower than the rates of the Publicly Owned Utility if the Utility Project was financed with bonds payable from the revenues of the Publicly Owned Utility; or
- (iii) Such other documents, reports, analyses and other materials which, in the event the Project is a Utility Project because it is in response to a Mandate, may include legal memoranda or opinions, setting forth the principal facts, assumptions, projections, variables and calculations and concluding that:
  - a. The Project to be financed with the proceeds of the sale of Rate Reduction Bonds is a Utility Project; and
  - b. The rates of the Publicly Owned Utility plus the Utility Project Charge resulting from the financing of the Utility Project with Rate Reduction Bonds are expected to be lower than the rates of the Publicly Owned Utility if the Utility Project was financed with bonds payable from the revenues of the Publicly Owned Utility.

(c) Information concerning the Utility Project:

- (1) In support of the conclusion that the Project to be financed with the proceeds of the sale of Rate Reduction Bonds is a Utility Project, the reports and materials referred to in Sections 8134(b)(5)(i), (ii) and (iii) must establish that:
  - (i) The items to be financed with the proceeds of the sale of Rate Reduction Bonds consist of the acquisition, construction, installation, retrofitting,

rebuilding, or other addition to, or improvement of, any equipment, device, structure, improvement, process, facility, technology, rights or property, located either within or outside of, the State of California, and that is used, or to be used, in connection with the operations of a Publicly Owned Utility for Conservation or Reclamation Purposes or in response to a Mandate; and

(ii) The use of the items to be financed with the proceeds of the sale of Rate Reduction Bonds will either:

a. Be designed to reduce the amount of potable water to be supplied by a Publicly Owned Utility or reduce the amount of water imported by the Publicly Owned Utility, including, without limitation, storm water recapture and treatment, water recycling, development of local groundwater resources, groundwater recharging, and water reclamation; or

b. Respond to a requirement, imposed by a Mandating Entity by any means, including without limitation, a statute, rule, regulation, an administrative or judicial order, a building, operating, or licensing requirement or condition, or an agreement with, or license or permit from, the Mandating Entity, on a facility of a Publicly Owned Utility or a facility operated in whole or in part for the benefit of a Publicly Owned Utility, or on the operations of a Publicly Owned Utility, or on the water pumped, acquired, or supplied by the Publicly Owned Utility.

(d) Information concerning the projected Financing Costs for the proposed Rate Reduction Bond financing:

(1) The Application shall provide the Financing Costs projected to be incurred in connection with the proposed Rate Reduction Bond financing, including:

(i) Anticipated Rate Reduction Bond Scale

- a. Not to exceed principal amount
- b. Maturities
- c. Interest rates
  - (A) Fixed or variable
  - (B) Current interest or capital appreciation bonds
- d. Redemption provisions

(ii) Anticipated Professional Fees

- a. Bond counsel fee
- b. Financial advisor fee
- c. Underwriters counsel fee
- d. Trustee counsel fee

- e. Accounting fee
  - f. Engineering fee
  - g. Other legal fees
  - h. Other consultants fees
- (iii) Issuance Fees
- a. Underwriting or placement fees
  - b. Trustee fee
  - c. Rating agency fees
- (iv) Credit or Liquidity Enhancement Fees
- a. Bond insurance fee
  - b. Bank letter of credit or standby bond purchase agreement fees
  - c. Debt service reserve amount or surety fees
  - d. Other credit or liquidity enhancement fees
- (v) Servicing and Administrative fees
- a. Publicly Owned Utility servicing fee (bill and collect the Utility Project Charge)
  - b. Annual trustee fees
  - c. Interest rate swap
  - d. Other servicing and administrative fees
- (2) Certificate from an independent financial advisor to the effect that based on information available to them, the projected Financing Costs fall within the normal range of financing costs for comparable types of debt issuance.

Note: Authority cited: Sections 6588.7(b)(3) and 6588.7(b)(7), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Sections 6588.7(b) and 6588.7(c), Article 4, Chapter 5, Division 7, Title 1, Government Code.

**§ 8135. Authority Action.**

- (a) Within 10 business days of receipt the Authority will advise the Issuer Applicant in writing whether Application is complete and, if not, what additional information or documentation is required.
- (b) Within 7 business days of submission of the additional information, the Authority will advise the Issuer Applicant in writing whether Application is complete and, if not, describing what additional information or documentation is required.
- (c) The Authority shall take action on any completed Application no later than the next meeting of the Authority that occurs after at least 60 days following determination by the

Authority that the Application is complete. During said 60 days, the Authority may request supplemental information in support of the Authority's review of an Application.

- (d) An Issuer Applicant can withdraw an Application at any time without penalty or prejudice, however the application fee paid pursuant to Section 8133 is not refundable. An Issuer Applicant can resubmit a withdrawn Application at any time. Payment of an additional application fee upon such resubmission shall be at the discretion of the Executive Director.

Note: Authority cited: Sections 6588.7(b)(3), 6588.7(b)(5) and 6588.7(b)(7), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6588.7(b), Article 4, Chapter 5, Division 7, Title 1, Government Code.

### **§ 8136. Application Approval.**

- (a) The Authority shall determine that an issue of Rate Reduction Bonds is qualified for issuance under 6588.7 of the Government Code if the Application establishes to the satisfaction of Authority that:
  - (1) The project to be financed with the proceeds of the sale of Rate Reduction Bonds is a Utility Project;
  - (2) The Local Agency Applicant is electing to finance costs of the Utility Project pursuant to Section 6588.7 of the Government Code and the Financing Costs associated with the financing are to be paid from Utility Project Property, including the Utility Project Charge for the Rate Reduction Bonds issued for the Utility Project in accordance with Section 6588.7 of the Government Code;
  - (3) Based on information available to, and projections used by, the legislative body of the Local Agency Applicant, the rates of the Publicly Owned Utility plus the Utility Project Charge resulting from the financing of the Utility Project with Rate Reduction Bonds are expected to be lower than the rates of the Publicly Owned Utility if the Utility Project was financed with bonds payable from the revenues of the Publicly Owned Utility; and
  - (4) The projected Financing Costs fall within the normal range of financing costs for comparable types of debt issuance.
- (b) The Authority shall provide an explanation in writing for any refusal to qualify a proposed issuance but shall not alter or modify any term or condition related to the Utility Project Property.

Note: Authority cited: Sections 6588.7(b)(2), 6588.7(b)(3), 6588.7(b)(4) and 6588.7(b)(7), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6588.7(b), Article 4, Chapter 5, Division 7, Title 1, Government Code.

**§ 8137. Reports.**

- (a) Each Issuer Applicant whose Application is approved shall provide to the Authority, within 10 business days following issuance of any Rate Reduction Bonds, the following information:
- (1) Principal amount of Rate Reduction Bonds sold.
  - (2) The maturity dates of Rate Reduction Bonds sold.
  - (3) The interest rate or rates on the Rate Reduction Bonds sold and, if such Rate Reduction Bonds bear interest at a variable rate, how, by whom and how often such rate is determined.
  - (4) The credit ratings assigned to such Rate Reduction Bonds by nationally recognized securities rating organizations.
  - (5) Whether the bonds were sold by competitive bid or negotiated sale.
  - (6) Comparison of interest rates and transactional costs on the Rate Reduction Bonds with other comparable types of debt occurring near the same time.

The Authority shall provide a form for such reports.

- (b) Annually no later than March 31, the Authority shall submit to the Legislature a report of its activities pursuant to Section 6588.7(b) of the Government Code for the preceding calendar year ended December 31. The Authority shall require information from Issuer Applicants to ensure that the necessary data is available to complete this report. The report shall include all of the following:
- (1) Listing of Applications received.
  - (2) Listing of proposed issuances qualified under the provisions of Section 6588.7(b) of the Government Code.
  - (3) Report of Rate Reduction Bonds sold, the interest rates on the Rate Reduction Bonds, whether the Rate Reduction Bond sales were pursuant to public bid or were negotiated, and any rating given the Rate Reduction Bonds by a nationally recognized securities rating organization.
  - (4) A specification of proposed issuances of Rate Reduction Bonds qualified but not yet issued.
  - (5) A comparison of the interest rates and transactional costs on issuances of Rate Reduction Bonds qualified under Section 6588.7(b) of the Government Code with interest rates on comparable types of debt issuance occurring at or near the same time as the Rate Reduction Bond issuances.

- (c) The Executive Director shall be authorized to seek the information required in sections (a)(1) through (5) from the Issuer Applicant concerning any Application submitted to the Authority for review.

Note: Authority cited: Sections 6588.7(b)(3), 6588.7(b)(7) and 6588.7(b)(8), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6588.7(b)(8), Article 4, Chapter 5, Division 7, Title 1, Government Code.

**§ 8138. Sunset.**

With the exception of Section 8137, these regulations shall expire upon the termination of the authority to issue Rate Reduction Bonds under Section 6588.7 of the Government Code. Section 8137 of these regulations shall expire upon the Authority's submission of its final report to the Legislature thereunder.

Note: Authority cited: Sections 6588.7(b)(3), 6588.7(b)(7), 6588.7(b)(8) and 6588.7(k), Article 4, Chapter 5, Division 7, Title 1, Government Code. Reference: Section 6588.7(b)(8), Article 4, Chapter 5, Division 7, Title 1, Government Code.