

1 [Administrative Code - Public Utilities Commission Power Enterprise Revenue Bond Law]

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3 **Ordinance amending the Administrative Code by adding to Chapter 43, Article XIV,**  
4 **Sections 43.14.1 through 43.14.10, to provide procedures for the issuance of Power**  
5 **Revenue Bonds by the Public Utilities Commission of the City and County of San**  
6 **Francisco.**

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NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
9 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
10 **Board amendment additions** are in Arial font.  
11 **Board amendment deletions** are in ~~Arial font~~.  
12 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13 subsections or parts of tables.

11

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Findings. The Board of Supervisors (the “Board”) of the City and County of  
14 San Francisco (the “City”) hereby finds and declares as follows:

15 A. The City is a municipal corporation and chartered city and county duly organized  
16 and existing under a charter pursuant to which the City has the right and power to make and  
17 enforce all laws and regulations in respect to municipal affairs and certain other matters in  
18 accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the  
19 Constitution of the State of California and Section 1.101 of the Charter of the City (the  
20 “Charter”).

21 B. Pursuant to the Charter, the Public Utilities Commission of the City and County  
22 of San Francisco (the “PUC”) is authorized, upon approval by the Board, to issue revenue  
23 bonds for any purposes related to the PUC’s Power Enterprise (defined below), including,  
24 without limitation, financing or refinancing capital additions, improvements, repairs and  
25 replacements to the Power Enterprise.

1 C. This Article sets forth procedures by which the PUC may issue and sell such  
2 revenue bonds payable from and secured by Power Enterprise Revenues (defined below).

3 D. This Article is consistent with the Charter and other applicable law and in  
4 furtherance of the purpose of the PUC as an enterprise department of the City.

5 Section 2. The San Francisco Administrative Code is hereby amended by adding to  
6 Chapter 43, Article XIV, Section 43.14.1 thru Section 14.14.10, as follows:

7 Section 43.14.1. Title.

8 This Article shall be known as the Public Utilities Commission Power Enterprise  
9 Revenue Bond Law.

10 Section 43.14.2. Definitions.

11 For purposes of this Article, the following terms shall have the meanings given below:

12 (a) The term “Board” shall mean the duly elected and acting Board of Supervisors of  
13 the City.

14 (b) The term “Bonds” shall mean the PUC’s power revenue bonds issued pursuant  
15 to and under authority granted by this Article.

16 (c) The term “Charter” shall mean the Charter of the City, as the same shall be  
17 amended from time to time.

18 (d) The term “City” shall mean the City and County of San Francisco.

19 (e) The term “Commission” shall mean the governing body of the PUC as  
20 established by the Charter.

21 (f) The term “General Manager” shall mean the General Manager of the PUC, or  
22 any successor to that office, or his/her designee.

23 (g) The term “Power Enterprise” shall mean, generally, the PUC’s electric utility  
24 system which provides electric power and related services to the City and its departments,  
25 agencies and commissions as well as others, including that portion of the Hetch Hetchy Water

1 and Power Project allocable to power generation, all other power generation, transmission  
2 and distribution facilities and related facilities, property and rights constituting a part of such  
3 electric utility system, and any and all additions, improvements, betterments, renewals,  
4 replacements and repairs thereto and extensions thereof, but shall not include: (a) the PUC's  
5 Water Enterprise; (b) the PUC's Wastewater Enterprise; or (c) any other separate utility  
6 system of the PUC.

7 (h) The term "Power Enterprise Revenues" shall mean, generally, all revenues, rates  
8 and charges received and accrued by the PUC for electric power and energy and other  
9 services, facilities and commodities sold, furnished or supplied by the Power Enterprise.  
10 Power Enterprise Revenues shall not include revenues of the PUC's Water Enterprise,  
11 Wastewater Enterprise or any other separate utility system of the PUC.

12 (i) The term "PUC" shall mean the Public Utilities Commission of the City and  
13 County of San Francisco.

14 (j) The term "State" shall mean the State of California.

15 (k) The term "Trust Indenture" shall mean each bond resolution or trust indenture  
16 under and pursuant to which the Commission issues Bonds, as supplemented and amended  
17 from time to time.

18 Section 43.14.3. Separate and Complete Authority.

19 The authority provided by this Article is in addition to, and not limited by, the authority  
20 provided by any other ordinance or law, and is separate and complete authority for the actions  
21 authorized in this Article.

22 Section 43.14.4. Authorization and Terms of Bonds.

23 (a) Subject to the approval of the Board, the PUC is authorized to issue Bonds for  
24 any purposes of the Power Enterprise, including, without limitation, financing or refinancing  
25 capital additions, improvements, repairs and replacements to the Power Enterprise. Such

1 Bonds shall be payable from and secured by Power Enterprise Revenues and shall be subject  
2 to such terms, conditions, covenants and agreements as the Commission may authorize by  
3 resolution.

4 (b) Bonds may bear a rate or rates of interest, which may be fixed or variable, but  
5 not to exceed the maximum legal rate of interest, as the Commission may authorize by  
6 resolution.

7 (c) Bonds may be sold at either competitive or negotiated sale in such manner as  
8 the Commission may determine.

9 (d) In connection with the issuance of any Bonds, the Commission may enter into  
10 credit enhancement or liquidity agreements with such terms, conditions, covenants and  
11 agreements as the Commission may authorize by resolution.

12 (e) In connection with the issuance of any Bonds, the Commission may designate  
13 and enter into agreements with such trustees, remarketing agents, placement agents and  
14 other service providers as the Commission may determine.

15 Section 43.14.5. Bonds as Special Limited Obligations; Issuance of Other Obligations.

16 (a) Bonds shall be special limited obligations of the PUC, payable from and secured  
17 by Power Enterprise Revenues or any portion thereof and such other funds and accounts of  
18 the Power Enterprise as specified in the Trust Indenture. Bonds shall not in any manner, or to  
19 any extent, constitute general obligations of the PUC or the City, or of the State or any political  
20 subdivision of the State. Bonds shall not be a charge upon the general fund or upon any  
21 moneys or other property of the PUC or the City, or of the State or any political subdivision of  
22 the State, other than the Power Enterprise Revenues. Neither the full faith and credit nor the  
23 taxing power of the City, or of the State or any political subdivision of the State, shall be  
24 pledged to the payment of Bonds. Bonds shall not constitute indebtedness of the City within  
25 the meaning of any State constitutional or statutory provisions or limitations or under the

1 Charter. No holder of a Bond shall have the right to compel the exercise of the taxing power of  
2 the City, the State or any political subdivision of the State to pay the Bonds or the interest  
3 thereon.

4 (b) Nothing in this Article shall prevent the City at the request of the Commission  
5 from issuing or incurring general obligation bonds, notes, lease or installment sale obligations  
6 or certificates of participation therein, or other evidences of indebtedness for any purposes  
7 related to the Power Enterprise, including, without limitation, financing or refinancing capital  
8 additions, improvements, repairs and replacements to the Power Enterprise.

9 Section 43.14.6. Refunding Bonds.

10 The Commission may by resolution authorize the issuance of Bonds to refund any  
11 outstanding Bonds, without the need for additional Board approval, provided that (i) such  
12 refunding is expected to result in net debt service savings to the City on a present value basis  
13 calculated as provided in Article VI of this Chapter, and (ii) such refunding Bonds are issued  
14 pursuant to an existing Trust Indenture. The General Manager shall provide a certification to  
15 the Commission regarding such expected net debt service savings on or prior to the issuance  
16 of such Bonds.

17 Section 43.14.7. Establishment of Rates and Charges.

18 In accordance with Charter Section 8B.125, the City, including, without limitation, the  
19 Commission, shall fix, establish, maintain, approve and collect rates and charges for electric  
20 power and energy and other services, facilities and commodities sold, furnished or supplied  
21 through the facilities of the Power Enterprise, including on, for and from the City and its  
22 departments, agencies and commissions, to provide the Power Enterprise Revenues  
23 sufficient (a) to pay all costs and expenses of the Power Enterprise, including, without  
24 limitation, debt service on Bonds, (b) to provide appropriate reserves therefor, and (c) to  
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1 satisfy the debt service coverage and other requirements under the applicable Trust  
2 Indenture.

3 Section 43.14.8. Repeal of Inconsistent Ordinance.

4 Section 6.407-2 of the prior Charter, before its amendment and restatement by the  
5 voters of the City in 1995, which Section was enacted into an ordinance by Section 18.103 of  
6 the new Charter, and which related to the Hetch Hetchy Revenue Fund and revenue bonds  
7 issued for the Hetch Hetchy Water and Power Project, is hereby repealed.

8 Section 43.14.9. Actions Concerning Validity of Bonds.

9 (a) Any action by the Commission or the City to determine, or any action by an  
10 interested person challenging, the validity of any Bonds shall be brought pursuant to Chapter  
11 9 (commencing with Section 860) of Title 10 of Part 2 of the California Code of Civil  
12 Procedure, as supplemented and amended.

13 (b) For the purposes of Section 860 of the Code of Civil Procedure, any action  
14 initiated pursuant to this Section shall be brought in the Superior Court of the City and County  
15 of San Francisco.

1 Section 43.14.10. General Authorization.

2 The Mayor, the City Attorney, the Controller of the City, the Treasurer of the City, the  
3 City Administrator, the Clerk of the Board and other officers of the City and their duly  
4 authorized deputies, agents and designees are hereby authorized and directed, jointly and  
5 severally, to take such actions and to execute and deliver such certificates, agreements,  
6 requests or other documents, as they may deem necessary or desirable to facilitate the  
7 purposes of this Article.

8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10  
11 By: \_\_\_\_\_  
12 MARK D. BLAKE  
13 Deputy City Attorney  
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