

1 [Administrative Code - Power Revenue Bonds]

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3 **Ordinance amending the Administrative Code to provide procedures for the issuance**
4 **of Power Revenue Bonds by the Public Utilities Commission of the City and County of**
5 **San 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 ~~*strikethrough italics Times New Roman font*~~.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

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Section 1. Findings.

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The Board of Supervisors (the “Board”) of the City and County of San Francisco (the
16 “City”) hereby finds and declares as follows:

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

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(b) Pursuant to the Charter, the Public Utilities Commission of the City and County
25 of San Francisco (the “PUC”) is authorized, upon approval by the Board, to issue revenue
bonds for any purposes related to the PUC’s Power Enterprise (as defined in Section 43.14.2

1 of the Administrative Code), including, without limitation, financing or refinancing capital
2 additions, improvements, repairs and replacements to the Power Enterprise.

3 (c) Article XIV of Chapter 43 of the Administrative Code sets forth procedures by
4 which the PUC may issue and sell such revenue bonds payable from and secured by Power
5 Enterprise Revenues (defined below).

6 (d) Article XIV also is consistent with the Charter and other applicable law and in
7 furtherance of the purpose of the PUC as an enterprise department of the City.

8
9 Section 2. The Administrative Code is hereby amended by adding Article XIV,
10 Sections 43.14.1 through 43.14.9, to Chapter 43, to read as follows:

11 **SEC. 43.14.1. TITLE.**

12 This Article XIV shall be known as the Public Utilities Commission Power Enterprise Revenue
13 Bond Law.

14 **SEC. 43.14.2. DEFINITIONS.**

15 For purposes of this Article XIV, the following terms shall have the meanings below:

16 “Board” shall mean the duly elected and acting Board of Supervisors of the City.

17 “Bonds” shall mean the PUC’s power revenue bonds issued pursuant to and under authority
18 granted by this Article.

19 “Charter” shall mean the Charter of the City, as the same shall be amended from time to time.

20 “City” shall mean the City and County of San Francisco.

21 “Commission” shall mean the governing body of the PUC as established by the Charter.

22 “General Manager” shall mean the General Manager of the PUC, or any successor to that
23 office, or the General Manager’s designee.

24 “Power Enterprise” shall mean the PUC’s electric utility system which provides electric power
25 and related services to the City and its departments, agencies, and commissions as well as others,

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

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

12 "PUC" shall mean the Public Utilities Commission of the City and County of San Francisco.

13 "State" shall mean the State of California.

14 "Trust Indenture" shall mean each bond resolution or trust indenture under and pursuant to
15 which the Commission issues Bonds, as supplemented and amended from time to time.

16 **SEC. 43.14.3. SEPARATE AND COMPLETE AUTHORITY.**

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

20 **SEC. 43.14.4. AUTHORIZATION AND TERMS OF BONDS.**

21 (a) Subject to the approval of the Board, the PUC is authorized to issue Bonds for any
22 purposes of the Power Enterprise, including, without limitation, financing or refinancing capital
23 additions, improvements, repairs, and replacements to the Power Enterprise. Such Bonds shall be
24 payable from and secured by Power Enterprise Revenues and shall be subject to such terms,
25 conditions, covenants, and agreements as the Commission may authorize by resolution.

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

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

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

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

11 **SEC. 43.14.5. BONDS AS SPECIAL LIMITED OBLIGATIONS; ISSUANCE OF OTHER**
12 **OBLIGATIONS.**

13 **(a) Bonds shall be special limited obligations of the PUC, payable from and secured by**
14 **Power Enterprise Revenues or any portion thereof and such other funds and accounts of the Power**
15 **Enterprise as specified in the Trust Indenture. Bonds shall not in any manner, or to any extent,**
16 **constitute general obligations of the PUC or the City, or of the State or any political subdivision of the**
17 **State. Bonds shall not be a charge upon the general fund or upon any moneys or other property of the**
18 **PUC or the City, or of the State or any political subdivision of the State, other than the Power**
19 **Enterprise Revenues. Neither the full faith and credit nor the taxing power of the City, or of the State or**
20 **any political subdivision of the State, shall be pledged to the payment of Bonds. Bonds shall not**
21 **constitute indebtedness of the City within the meaning of any State constitutional or statutory**
22 **provisions or limitations or under the Charter. No holder of a Bond shall have the right to compel the**
23 **exercise of the taxing power of the City, the State, or any political subdivision of the State to pay the**
24 **Bonds or the interest thereon.**

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

6 **SEC. 43.14.6. REFUNDING BONDS.**

7 **The Commission may by resolution authorize the issuance of Bonds to refund any outstanding**
8 **Bonds, without the need for additional Board approval, provided that (a) such refunding is expected to**
9 **result in net debt service savings to the City on a present value basis of at least 3% calculated as**
10 **provided in Article VI of this Chapter 43, and (b) such refunding Bonds are issued pursuant to an**
11 **existing Trust Indenture. The General Manager shall provide a certification to the Commission**
12 **regarding such expected net debt service savings on or prior to the issuance of such Bonds.**

13 **SEC. 43.14.7. ESTABLISHMENT OF RATES AND CHARGES.**

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

22 **SEC. 43.14.8. ACTIONS CONCERNING VALIDITY OF BONDS.**

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

3 (b) For the purposes of Section 860 of the Code of Civil Procedure, any action initiated
4 pursuant to this Section 43.14.8 shall be brought in the Superior Court of the City and County of San
5 Francisco.

6 **SEC. 43.14.9. GENERAL AUTHORIZATION.**

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

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13 Section 3. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

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18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

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21 By: _____
22 MARK D. BLAKE
23 Deputy City Attorney

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