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California State Senate

SENATOR
THOMAS J. UMBERG

THIRTY-FOURTH SENATE DISTRICT



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DOMESTIC VIOLENCE

July 29, 2022

The Honorable Rudy Salas
Chair, Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95831

RECEIVED
07/29/2022

Dear Chair Salas and Members:

We respectfully request that the Joint Legislative Audit Committee approve an emergency audit to examine the Orange County Power Authority's internal business practices due to allegations of corruption, Brown Act violations, and questionable electricity procurement practices. We are requesting this audit under Rule 17 of the Joint Legislative Audit Committee, which requires the Chair and Vice Chair to concur in order to approve an audit request.

The Orange County Power Authority (OCPA) is a new Community Choice Aggregation that enables local government control over energy procurement. It offers automatic enrollment to both business and residential customers with the ability for customers to opt-out of the program. The launch of OCPA's business/commercial services occurred on April 1, 2022. Residential services will begin on October 1, 2022.

Multiple events and complaints have triggered concerns regarding the governance, operation, and basic competence of the Authority. Specific concerns include but are not limited to:

- How OCPA has conducted internal meetings,
- OCPA's failure to be transparent in its decision-making process, and
- OCPA's failure to deliver on its promise to provide cleaner electricity at lower rates for participating Orange County residents and businesses.

There is deep concern, at this point, about the long-term viability of OCPA. It has failed to disclose actual revenues and expenses as measured against projections. Many public records requests from individuals and city council members have been ignored or denied. Many complaints from local businesses have also been received regarding a lack of notice regarding the process to opt-out of OCPA's services.

In April of this year, the California Public Utilities Commission levied a major fine of \$1.96 million against OCPA for failing to purchase adequate electricity to avoid service interruption this summer and beyond.

Given the nature of this request, the fact that California is once again facing expected heat waves and power outages this summer, and the Authority's fiduciary obligations to its customers – our combined constituents – we are requesting this audit be conducted as timely as possible.

Because emergency audits under Rule 17 of the Joint Legislative Audit Committee are limited to a cost of \$190,000, this request empowers the State Auditor to modify and decrease the scope of this audit to remain within this monetary limit. We have prioritized the audit objectives we are proposing below, with #1 being the highest priority and #8 being the relatively lowest priority.

1. Determine why there was a failure to fully disclose revenues and expenditures, what those expenditures are, and who received those funds.
2. OCPA has purchased half a billion dollars worth of electricity, and the terms of those power purchasing agreements remain unclear. We ask the auditor to review what OCPA's power purchasing agreements and practices.
3. Determine what OCPA's projections were for revenue and assess whether those projections were achieved.
4. Determine the loss of revenue from customers who opted-out or opted-down.
5. Determine if there were Brown Act violations.
6. Determine what the hiring practices and standards are for officers.
7. Determine how notice was provided to customers that explained how to-opt out of OCPA services.
8. Assess the long-term viability of OCPA.

Thank you for your consideration of this audit request.

Sincerely,



Tom Umberg
Senator, District 34



Sharon Quirk-Silva
Assemblymember, District 65



Josh Newman
Senator, District 29



Cottie Petrie-Norris
Assemblymember, District 74



Tom Daly
Assemblymember, District 69



Dave Min
Senator, District 37