

**Assembly Concurrent Resolution**

**No. 144**

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**Introduced by Assembly Member Fong  
(Coauthor: Assembly Member Buchanan)**

April 17, 2012

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Assembly Concurrent Resolution No. 144—Relative to public review of the settlement between the Public Utilities Commission and NRG Energy.

LEGISLATIVE COUNSEL'S DIGEST

ACR 144, as introduced, Fong. Public Utilities Commission: settlement with NRG Energy.

This measure would urge that the full terms, conditions, and circumstances of the settlement between the Public Utilities Commission and NRG Energy be made available for public review and comment to ensure incorporation of key principles that will result in ratepayer benefit, consumer choice, and competitive fairness in California's electric vehicle market.

Fiscal committee: yes.

- 1 WHEREAS, On March 23, 2012, the Public Utilities  
2 Commission announced a \$120 million settlement (Settlement)  
3 agreement with Dynegy Power Marketing's successor in interest,  
4 NRG Energy (NRG), to settle claims that Dynegy had artificially  
5 inflated the cost of electricity and had taken advantage of  
6 California's power crisis a decade ago; and  
7 WHEREAS, During 2000 and 2001, the State of California, and  
8 ultimately ratepayers, overpaid nearly \$9 billion to various  
9 companies, including to NRG that artificially raised prices by

1 withholding energy supplies, driving up rates, and causing the  
2 notorious rolling blackouts that left power customers sporadically  
3 in the dark; and

4 WHEREAS, The Settlement, to be performed over four years,  
5 stems from claims against NRG, which coowned plants that  
6 generated California power at the time, and enabled harmful  
7 business practices against California ratepayers; and

8 WHEREAS, The Settlement negatively impacts California  
9 ratepayers by taking funds that otherwise should have been  
10 rightfully refunded to such ratepayers and, essentially, giving those  
11 funds to NRG to build future profit-generating business operations;  
12 and

13 WHEREAS, Only \$20 million of this Settlement will go directly  
14 to ratepayers to reduce energy bills, while \$100 million will return  
15 to NRG through an in-kind contribution that funds at least 200  
16 public fast-charging stations, and another 10,000 plug-in units at  
17 1,000 locations in the San Francisco Bay area, the San Joaquin  
18 Valley, the Los Angeles basin, and San Diego County; and

19 WHEREAS, NRG has been rewarded instead of penalized for  
20 Dynegy's past market manipulations and is being presented with  
21 a monopolistic entrance into the California electric vehicle charging  
22 market with exclusivity clauses, unlimited pricing, and would  
23 permit the defendant to be relieved of its liability in exchange for  
24 giving the defendant a preferential position in the start of a vacant  
25 market in California, threatening consumer choice, market  
26 competition and interoperability, and open architecture among  
27 charging networks; and

28 WHEREAS, The Settlement may harm electric vehicle drivers  
29 and may result in NRG administering unjust and unreasonable  
30 prices for electric vehicle charging services by virtue of its  
31 anticipated large-scale dominance of the market; and

32 WHEREAS, The Settlement has adverse impacts on current  
33 negotiations and infrastructure deployment activities by other  
34 electric vehicle charging operators in California that will discourage  
35 near-term and long-term competitiveness and negatively impact  
36 opportunity for a level playing field among electric vehicle  
37 charging networks operating in California; and

38 WHEREAS, The Settlement negotiation process has been  
39 conducted in total secrecy, lacking transparency, with no  
40 opportunity for independent assessment of the impacts on

1 California ratepayers and California’s current infrastructure market;  
2 and

3 WHEREAS, The Settlement undermines public policy to expand  
4 a competitive market for electric vehicles in California, as  
5 expressed in Assembly Bill 631 (Chapter 480 of the Statutes of  
6 2011) and Assembly Bill 118 (Chapter 750 of the Statutes of 2007);  
7 now, therefore, be it

8 *Resolved by the Assembly of the State of California, the Senate*  
9 *thereof concurring*, That the Legislature urges that the full terms,  
10 conditions, and circumstances of the Settlement be made available  
11 for public review and comment to ensure incorporation of key  
12 principles that will result in ratepayer benefit, consumer choice,  
13 and competitive fairness in California’s electric vehicle market;  
14 and be it further

15 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
16 of this resolution to author for appropriate distribution.

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