

Who Owns CPS Energy?

Decision to exclude nearly 40 percent of CPS Energy emissions from evolving Climate Action & Adaptation Plan revives long-standing debate.

Greg Harman

The seats are pulled up in a large circle at the Esperanza Peace & Justice Center as so often happens in activist spaces. Nuclear power. Community organizing. Solar deployment. Green spaces. Climate destruction.

All things energy are on the table at Climate Action SA's first community conversation—a climate plática—about City-owned CPS Energy's vision for the future.

“What do you mean that windmills are the same as gas plants?” asks one participant of another, digging into one more brief debate, intended to target local relationships with energy and energy justice.

The event is inspired by the recent release of CPS Energy's “flex plan,” suggesting coal power up to 2042 and possibly beyond and a remarkably slow investment in new renewables (the soonest serious investment occurs in solar in the mid-'30s). It's a vision the Alamo Group of the Sierra Club has come out strongly against.

While the council and mayor were invited to the event, only John Courage (Council District 9) is among us—without doubt one of the most progressive and accessible councilmembers.

After patiently listening for more than 30 minutes, Courage offers that City Council has very limited control over CPS Energy. “All we can do is approve their rate increase requests,” he says.

He's not alone in his misunderstanding of the relationship between the City and the utility it purchased in 1942. And that has begun to cause complications in the Climate Action & Adaptation Plan (CAAP) process.

Last summer, the San Antonio City Council announced it would pursue a pathway to meet the non-binding international Paris Agreement. The hope: That even without the support of the U.S. President, the rest of the nations of the world—and committed U.S. cities and states—would hold global temperature rise to under two-degrees Celsius.

In July, climate planners presented volunteer members of the CAAP steering committee and various technical working groups a plan to catalogue existing emissions. We were creating a target, so we knew how much emissions needed to reduce to meet our required contribution to “meeting Paris.”

One problem leapt to the fore.

Nearly 40 percent of CPS Energy's 11.34 million tons of annual greenhouse emissions were not included in that inventory. (Over a



Mary Agnes Rodriguez represents at historic climate justice rally last summer during the city's mayor runoff.

million tons of emissions from private industry, also initially excluded, have since been added back, thanks to strong pushback from the various CAAP citizen working groups.)

The Navigant consultant guiding the process explained the decision by saying that attorneys for the City and CPS Energy, and the Office of the Mayor had agreed to the exclusion. Among the justifications for exclusion is the suggestion that San Antonio doesn't have “operational control” over the utility it owns—and certainly not the 37 percent of the power

it sells to communities outside City limits.

The assertion by representatives of the Office of Sustainability and Navigant Consulting cuts to the heart of long-standing community grievances over how the utility is—or rather, is not—managed.

To smooth anticipated agitations, the draft emissions inventory stated: “CPS Energy will track emissions for their broader service area and will have comprehensive initiatives to reduce emissions to benefit the entire area.”

It was an accounting recommendation met with skepticism by some steering committee members.

“To keep with Paris on a global scale, I don't know how relevant the City of San Antonio's boundaries are,” steering member Peter Bella said. “I consider CPS Energy owned by the City and operated by the City.”

CAAP managers seemed to be going against best practices defined by some greenhouse protocols, such as the US Community Protocol, which requires inclusion of “all emissions from energy production and energy use in energy industries,” as well as “all emissions from the generation of energy for grid-distributed electricity, steam, heat and cooling.”

The top three questions the Protocol asks cities to consider when identifying areas over which they have most influence, include: **Do I own it? Do I have operational control? Do I have regulatory authority over it?**

The lack of transparency and community engagement at CPS Energy have been sore points for clean energy advocates and social and environmental activists for decades. So, in many ways, this question of emissions is a perfect opportunity to hash that out.

Let's start with the broad strokes of this power dynamic at Texas Government Code Section 1502.070, “Management and Control of Utility System.”

There we see that while CPS is indeed a City-owned utility,

day-to-day management and many other key tasks are assigned out to an appointed Board of Trustees, composed of four members and San Antonio's sitting mayor.

This Board appoints and manages CPS Energy's executive officers—the CEO, COO, various VP's, etc. Like a corporation, the CEO and management oversee day-to-day operations. The Board receives regular reports from management and holds monthly meetings.

However, it is the San Antonio City Council that appoints those trustees and defines the scope of their duties and authority. It is the San Antonio City Council that controls utility rate adjustments, the issuing of bonds, decides cases of eminent domain, and sets policy at a broad level.

It is the City that placed power in the hands of a Board of Trustees—power they can also take away. If sufficiently motivated, the Council could adopt an arrangement whereby the City Council becomes the Board of Trustees, such as is practiced in Austin.

It could be argued that the board arrangement, often used to define the utility's distance from the Council, is actually a tool of



ICLEI, is an acronym for the International Council for Local Environmental Initiatives, now known simply as Local Governments for Sustainability.

Perhaps operational control is in the eye of the beholder. More likely, historical “misunderstandings” have simply served a council that likes to take refuge in the shelter it allows.

While adjustments have been made in response to feedback on the initial inventory, such as roping in the massive emissions from the

cement batching plants, the CPS matter remains as it was.

In this, the generators of the “flex” plan, and those suggesting the lack of operational control, are saying: “Trust us.” Those laboring for a clean-energy future, such as the many volunteers at Climate Action SA, of which Esperanza Peace & Justice Center is a member, aren't waiting for the utility reportback.

We recognize we are morally obligated to do everything we can to slow and reverse climate change for those families being devastated by increasingly violent weather events right now and for those generations to come who we have already overburdened with an exist-

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The Board of Trustees, in exercising the management powers granted herein, will ensure that policies adopted affecting research, development, and corporate planning will be consistent with City Council policy, and policies adopted by the Board of Trustees pertaining to such matters will be subject to City Council review.

“operational control” on behalf of the City. It is indisputably the Council that leads in this dance.

If San Antonio Mayor Ron Nirenberg declared tomorrow, “We’re taking San Antonio to net-zero carbon on all energy generation by 2030,” CPS would be forced to swing into action.

The U.S. Community Protocol for Accounting and Reporting of Greenhouse Gas Emissions, suggests time and again that cities go deep and broad with estimating climate emissions.

It is anticipated “but not required” that cities like San Antonio focus their work on “emission sources and activities over which they have significant influence.” They may also choose to widen their scope to those areas they don't have regulatory authority over—such as “emissions that result from activities such as the use of energy, materials, and services by all members of the community. These emissions may be occurring within or outside of the community boundary.”

ICLEI, which developed that protocol, is skeptical of decisions to leave out these broader emissions, since failing to do so “provides a much less complete story of how the community contributes to climate change, as many community activities ... contribute to emissions from trans-boundary sources.”

tential challenge.

To accomplish this, we must clearly identify the largest culprits, the coal and gas plants powering the city, as well as the cement kilns, gas-guzzling transportation, military bases, and our landfills.

Barring that, without a clear target, there is no way to know at what point our effort has been successful—that we have achieved, indeed exceeded, localized Paris-level reductions.

Given that uncertainty, Climate Action SA's campaign to eradicate San Antonio's worst offender—CPS coal power—by 2025 becomes even more critical. From there we can move confidently to a net-zero energy sector by 2030. All the while, this shift from an extractive polluting economy must advance and evolve in San Antonio until we are not only not polluting, where we absorb more greenhouse pollution than we emit, but grows a just and regenerative economy serving all our residents.

This is the justice vision at root in Paris and one that must be tended and cultivated in San Antonio consistently all along the climate action process.

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