STATE OF CALIFORNIA — THE RESOURCES AGENCY

Arnold Schwarzenegger, *Governor*

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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:	)	Docket No. 06-OIR-1
	)	Order No. 07-0523-7
	)	
Proposed Adoption of Regulations Establishing a Greenhouse Gases Emission Performance Standard For Baseload Generation of Local Publicly Owned Electric Utilities	)	ORDER ADOPTING REGULATIONS AND APPROVING NEGATIVE DECLARATION

I. ADOPTION OF REGULATIONS AND APPROVAL OF NEGATIVE DECLARATION

The California Energy Commission ("Commission") approves the proposed Negative Declaration that was published on March 30, 2007, and adopts the regulations set forth in the Express Terms that were published on May 4, 2007 ("15-Day Language") (Cal. Code of Regs., tit. 20, §§ 2900 – 2913). The adopted 15-Day Language implements SB 1368 (Stats. 2006, ch. 598), by establishing and implementing a greenhouse gases emission performance standard for local publicly owned electric utilities ("POUs"). We take this action under the authority of, and to implement, interpret, and make specific, sections 25213 and 25218(e) of the Public Resources Code, and sections 8340 and 8341 of the Public Utilities Code.

On March 9, 2007 the Commission published a Notice of Proposed Action ("NOPA") concerning the potential adoption of new regulations, along with the Express Terms of the proposed regulations ("45-Day Language") and an Initial Statement of Reasons ("ISOR") describing the rationale for the proposal. The NOPA designated April 25, 2007, as the date for the hearing to consider adoption of the proposed regulations. On that date, the Commission decided not to adopt the proposed regulations, but rather to issue clarifying changes in 15-Day Language, for consideration at a hearing on May 23, 2007. The 15-Day Language was published on May 4, 2007.

On May 23, 2007, the Commission held a public hearing to receive comments on the proposed regulations and to consider their adoption, and to consider the proposed negative declaration on the regulations. After considering all comments received and the staff's responses, the Commission voted [unanimously] to approve the negative declaration and to adopt the regulations.

II. FINDINGS

Based on the entire record of this proceeding, we find as follows:

A. SB 1368. The adopted regulations:

(1) establish a greenhouse gases emission performance standard ("EPS"), consistent with the standard adopted by the Public Utilities Commission for load-serving entities, for baseload generation of local publicly owned electric utilities, that is no higher than the rate of emissions of greenhouse gases for combined-cycle natural gas baseload generation;

(2) establish a process to enforce the EPS with respect to local publicly owned electric utilities;

(3) include the net emissions resulting from the production of electricity by baseload generation in determining the rate of emissions of greenhouse gases;

(4) establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration recognizes the total usable energy output of the process, and include all greenhouse gases emitted by the facility in the production of both electrical and thermal energy;

(5) consider the net emissions from the process of growing, processing, and generating the electricity from the fuel source in calculating the emissions of greenhouse gases by facilities generating electricity from biomass, biogas, and landfill gas energy;

(6) do not count carbon dioxide, captured from the emissions of a powerplant, that is permanently disposed of in geological formations, in compliance with applicable laws and regulations, as emissions from the powerplant;

(7) consider the effects of the EPS on system reliability and overall costs to electricity consumers;

(8) address long-term purchases of electricity from unspecified sources in a manner consistent with SB 1368;

(9) are consistent with rules adopted pursuant to section 824a-3 of Title 16 of the United States Code; and

(10) consider the design and intended use of powerplants, electricity purchase contracts, permits for powerplants, procurement approval decisions for load-serving entities, and all other relevant matters in determining whether a long-term financial commitment is for baseload generation.

B. The Administrative Procedure Act. The adopted regulations:

(1) will not result in a significant statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states;

(2) will not create or eliminate a significant number of jobs within California;

(3) will not create new businesses, eliminate existing businesses, or have an effect on the expansion of businesses in California;

(4) will impose no costs on private persons;

(5) impose no direct or indirect requirements or costs on state agencies or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of the Government Code, but do impose some small administrative costs on local agencies, which can be recouped through revenue sources provided under Public Utilities Code sections 10001, 11501, 15501, and 20500 et seq;

(6) will result in no costs or savings in federal funding to the State;

(7) will not affect housing costs;

(8) will have no significant adverse effect on businesses in general or small businesses in particular;

(9) have no known costs that a representative person or business would incur in compliance; and

(10) have no alternatives that would be more effective in carrying out the purpose of the adopted regulations or would be as effective as and less burdensome to affected private persons than the regulations proposed for adoption.

C. The California Environmental Quality Act.

(1) The adopted regulations will not result in a direct, or reasonably foreseeable indirect, physical change in the environment.

(2) The negative declaration reflects the Energy Commission's independent judgment and analysis.

III. CONTINUATION OF DELEGATION OF AUTHORITY TO THE ELECTRICITY COMMITTEE

The Commission continues in effect its delegation to the Electricity Committee (Commissioner Byron, Presiding Member, and Commissioner Geesman, Associate Member) of the authority to take, on behalf of the Commission, all actions reasonably necessary to have the adopted

regulations go into effect, including but not limited to incorporating any changes approved at the Business Meeting into the final Express Terms submitted to OAL; making any appropriate nonsubstantive, editorial-type changes; making any nonsubstantive changes required by OAL; and preparing and filing all appropriate documents, such as the Final Statement of Reasons at OAL.

May 23, 2007

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

JACKALYNE PFANNENSTIEL
Chairman

JAMES D. BOYD
Vice Chairman

(Absent)
ARTHUR H. ROSENFELD, Ph.D.
Commissioner

JOHN L. GEESMAN
Commissioner

JEFFREY BYRON
Commissioner