

———— SB110 REPORT ————

The California Energy Commission's Reporting, Forecasting & Data Collection Responsibilities

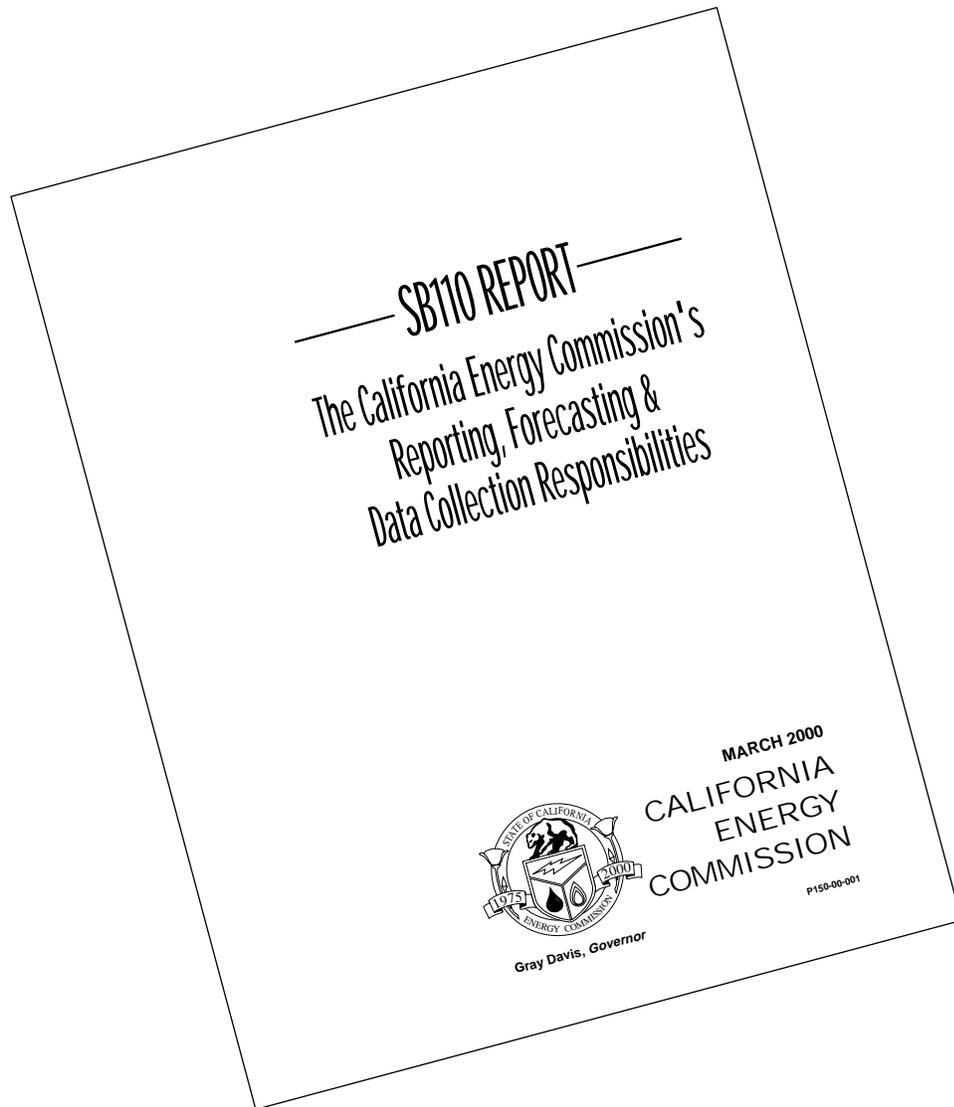


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EXECUTIVE SUMMARY

Introduction

In Senate Bill (SB) 110 the Legislature declared its intent to change the reporting and forecasting responsibilities of the California Energy Commission (Energy Commission). It asks the Energy Commission for input on how these responsibilities should change to meet “the information needs of the public and the policy development needs of the Governor and the Legislature in the restructured electricity market.”¹

To further this goal, SB 110 directs the Energy Commission to prepare a report, by March 31, 2000, making recommendations for consolidating and clarifying its policy reporting obligations. The Energy Commission is currently mandated to produce multiple independent policy reports including an **Electricity Report**, a **Fuels Report**, **Biennial Report**, **Energy Efficiency Report** and an **Energy Development Report**.² SB 110 also requires the Energy Commission to make recommendations on revising its authority to collect data in the restructured electricity market. This data collection is an integral part of the Energy Commission’s forecasting, assessment and reporting responsibilities and supports its development of energy policy recommendations for the Governor and Legislature.

SB 110 specifies that the recommendations in this report shall include a discussion of policy development and public information objectives for the Energy Commission’s reporting requirements under restructuring. In addition, the report is to address specific data requirements necessary to meet these reporting requirements and the alternative means of acquiring data.

Summary of Recommendations

The passage of AB 1890 made fundamental changes to the structure of the California electricity market in California that affects public interests. SB 110 also changed the Energy Commission’s responsibilities related to the electricity market by eliminating the link between the integrated assessment of need and the demand conformance finding previously required for power plant licensing in the State.³ In light of these changes, the Energy Commission fully supports the Legislature’s efforts to align its forecasting and assessment, and reporting responsibilities with current market realities. In fact, the Energy Commission has been actively evaluating these issues through its Energy Market Information Proceeding conducted over the last two years.

Energy Policy Development Objectives

Sufficient long-term supplies of cost-effective and environmentally sound energy, and the infrastructure to process and deliver reliable supplies to citizens and businesses, are paramount to the continued growth and development of the California economy. The supply of, and demand for, energy affects, or is affected by, a number of public interests including the economy, the public health and safety and the environment.

The Energy Commission considers the following fundamental public interest objectives, originally outlined by the Legislature in the Warren-Alquist Act and reiterated in AB 1890, to be of paramount importance in developing sound energy policy for the State:

- The continued growth and development of the State's economy.
- The maintenance of the general welfare and the public health and safety of the State's citizens.
- The protection of the environment, including air and water quality.
- The conservation of energy and other natural resources.

The Energy Commission believes its forecasting and assessment reporting and data collection responsibilities need to change in the following ways to better serve these interests in the restructured market.

Forecasting and Assessment Responsibilities

The Energy Commission's Forecasting and Assessment Responsibilities Should Change from a Regulatory to an Informational Role

Issue: SB 110 made changes to the Energy Commission's mandate with respect to the demand conformance determination in power plant licensing cases. This change means that the Energy Commission's continuing facility licensing responsibilities no longer include a primary regulatory role in determining need when licensing power plants in the State. Instead, meeting the need for electricity in California has been relegated largely to market forces under restructuring. Despite these changes, the Energy Commission's current statutory requirements for forecasting and assessment are still focused on the regulatory tools and outcomes of the past. Revisions to the statute are necessary to better align the Energy Commission's responsibilities with the new market structure and the issues relevant to today's electricity market.

Recommendation: The Energy Commission recommends that statutory changes be made to refocus its forecasting and assessment responsibilities from serving obsolete regulatory approaches to an information role to support energy policy decisions. It should identify and address the demand, supply, system and market structure issues raised by restructuring as the basis for policy development.

More Localized Analysis Is Needed for the Current Market Structure

Issue: The current *Electricity Report* language focuses on statewide and service-area requirements. The new market structure requires more localized or sub-regional information. For example, analysis of the electricity system should include sub-regional areas to address emerging issues in the Independent System Operator's transmission planning and congestion management areas. The Energy Commission should have the ability to conduct analysis below the statewide and service area level, compatible with the new market structure.

Recommendation: The Energy Commission recommends that statute be amended to include language that recognizes the need for analysis of "geographic areas that are useful for system assessment purposes" or similar broad language that allows sub-regional analyses.

Reporting Responsibilities

Energy Commission Needs to Consolidate its Policy Reports to Make Them More Timely and Relevant.

Issue: The Energy Commission believes its current mandate to complete multiple, separate policy reports does not serve the needs of current energy markets and issue identification. In addition, the past *Electricity Reports* were focused at a much more detailed level than necessary for policy development under restructuring. Data and information are frequently out of date by the time these reports are published. In addition, the current policy reports, as originally designed, do not adapt well to emerging and rapidly changing energy issues.

Recommendation: The Energy Commission recommends that a consolidated energy policy report process be implemented to make its policy recommendations more timely, relevant and useful. Under this process, the Energy Commission's five currently mandated policy reports would be consolidated and integrated in one report. This *Integrated Energy Policy Report* would feature a streamlined process to address energy issues from previous policy report processes. It would explicitly address interactions and potential conflicts in policies across energy markets or fuel types. Energy markets and systems would be grouped into three subsidiary volumes to facilitate their analysis and assessment. These volumes would include:

- Electricity and Natural Gas;
- Transportation Fuels, Technologies and Infrastructure;
- Public Goods: Energy Efficiency, Renewable Technologies, and Public Interest Energy Research.

The Energy Commission would adopt this new policy report no later than November of odd years to better serve legislative and budgetary cycles. It would be done on a

biennial cycle to allow in-depth analysis of major energy issues. In the even years, between cycles, the Energy Commission would produce an Energy Policy Review to address emerging or pressing energy issues.

The Adjudicatory Nature of the Electricity Report Is No Longer Appropriate

Issue: The *Electricity Report* has historically required a high degree of detailed information on supply and demand that required many hearings in which specific assumptions, data and findings/conclusions were adjudicated. The current statute requires a “quasi-legislative evidentiary” process, with hearing orders and pre-hearing conferences, as well as expert testimony and cross-examination.⁴ The Energy Commission and other parties believe this approach is no longer appropriate in the restructured environment.

Recommendation: The Energy Commission recommends that this adjudicatory process be replaced with a process that allows effective public input for the purposes of developing policy recommendations. The new process should include Energy Commission-sponsored workshops, hearings and other forums in a number sufficient to gain the views and perspective of stakeholders and members of the public. However, the number of such opportunities for public input should not impose unnecessary burdens or reduce accessibility for those members of the public wishing to participate.

Multiple Draft Schedules in Electricity Report Mandate Result in An Overly Time-Consuming Process

Issue: The current *Electricity Report* statute requires a draft report, a draft final report and a final report that requires up to 15 months to complete. The *Common Forecasting Methodology* process for collecting forecasts and resource plans from utilities and evaluating them has historically added another 9 months to the process, bringing the total production time to 24 months. The Energy Commission believes these interim products and deadlines serve little, if any, purpose under restructuring. Instead, they increase the burdens on all parties by requiring them to attend multiple workshops and hearings on each report and to review multiple documents and file several sets of comments.

Recommendation: The Energy Commission recommends that interim products and deadlines in the *Electricity Report* mandate be eliminated and replaced with one statutory deadline for Energy Commission adoption of the new *Integrated Energy Policy Report*.

Data Collection Responsibilities

Common Forecasting Methodology Process And Portions Of Quarterly Fuels and Energy Report Should Be Replaced With the Energy Commission's Recently Adopted Data Collection Requirements.

Issue: Current statutory language for data collection specific to the electricity industry is built around the submittal of reports by utilities that contained the demand forecasts and supply plans for their service areas (*Common Forecasting Methodology* and portions of *Quarterly Fuels and Energy Report*). This is no longer appropriate since utilities are no longer the sole source of data in the restructured electricity market. New market participants have become a primary source for data on the electricity market. In addition, some data collection should be undertaken directly by the Energy Commission using new funding sources.

Recommendation: The Energy Commission's new data collection approach reflects these changes and outlines new data collection responsibilities for market participants. The Energy Commission recommends that this new approach be reflected in statutory language. The old *Common Forecasting Methodology* statutory language should be eliminated and *Quarterly Fuels and Energy Report* provisions modified extensively.

Need For Clarification Of Energy Commission Data Collection Authority Over New Market Participants.

Issue: A number of new market participants, for example Energy Service Providers, assert that the Energy Commission does not have jurisdiction to collect data from them. While the Energy Commission believes current statutory language is broad, specific statutory clarification and affirmation of the Energy Commission's authority over new market participants will encourage these parties to comply with the Energy Commission's data requirements. In turn, this will ensure that the Energy Commission can provide the Governor and Legislature with the necessary information to establish sound energy policy for California.

Recommendation: The Energy Commission recommends that statutory language be added that specifically clarifies its data collection authority over new market participants.

Enforcement And Confidentiality Provisions For Electricity And Natural Gas Data Collection Should Be Added To The Statute.

Issue: The Energy Commission's electricity and natural gas data collection requirements do not currently have adequate compliance provisions, including penalties for failing to meet data submission requirements. There are also no statutory assurances that the Energy Commission will adequately protect confidential data, although the Energy Commission recognizes the importance of protecting privacy and keeping commercially-sensitive data confidential.

Recommendation: The Energy Commission recommends that statutory language be added to shift the electricity and natural gas data collection to the approach already embodied in *Petroleum Industry Information Reporting Act* provisions. This change would reduce the amount of electricity and natural gas data disclosed to the public. It would also provide financial incentives to entities with reporting obligations to honor these requirements. This would ensure that the Energy Commission had a complete and accurate understanding of energy issues for policy development.

End Notes

¹ Chapter 581, Statutes of 1999, Public Resource Code (PRC) Section 25309.3.

² PRC Sections 25300 to 25310.4.

³ The integrated assessment of need remains in PRC Section 25305, while PRC Section 25308.5 that required a demand conformance determination consistent with Electricity Report findings on need, for use in Energy Commission power plant licensing cases, was eliminated by SB 110.

⁴ PRC Section 25307.5 (b) (3).

SECTION I: CHANGING POLICY DEVELOPMENT AND INFORMATION OBJECTIVES IN THE RESTRUCTURED ELECTRICITY MARKET

SB 110 Reporting Requirement

SB 110 requires the Energy Commission to prepare a report on its energy reporting, forecasting and data collection responsibilities as follows:

“25309.3. (b) Notwithstanding Section 7550.5 of the Government Code, the commission shall prepare a report to the Governor and Legislature on or before March 31, 2000, that contains the following:

(1) Recommendations for consolidating and clarifying the reporting obligations contained in Sections 25300 to 25310.4, inclusive, and revising the authority of the commission to collect data from private parties. The recommendations shall include a discussion of the public information and policy development objectives; the relationship between these objectives, proposed reporting requirements, and specific data needs; and the costs and benefits of obtaining data through alternate means, including imposing requirements on private parties, collecting data from public sources, including, but not limited to, filings with other government agencies, and purchasing data from private data collection services.”

Introduction

SB 110 directs the Energy Commission to examine the State's changing policy development and information objectives in the context of a restructured electricity market. In fact, to further this goal, the Energy Commission has examined numerous related issues, over the last two years, in its Energy Market Information Proceeding.¹ These included:

- The public interests and policy objectives that should be met in conducting energy assessment and forecasting functions in the restructured market.
- The information needs of the Governor and Legislature in developing energy policy that serves the affected public interests, as well as the information needs of

the public and market participants to promote workable competition in the restructured market.

- The appropriate scope of analytical activities to provide a sound information base to assure that its assessment and forecasting functions are timely, effective and relevant.
- The data needed, and methods available to acquire data, to allow the Energy Commission to successfully carry out its responsibilities.

The following section addresses the fundamental policy development objectives the Energy Commission's energy and electricity forecasting and reporting roles should be designed to support. For the purposes of the report, the Energy Commission interprets the function of "forecasting" to include forward-looking assessments and analytical activities related to energy issues. The following sections also address the information needs of the public, as well as those of market participants, that the Energy Commission's forecasting and assessment and reporting functions should address. In addition, the report lays out the overall approach the Energy Commission believes should form the foundation of its roles in energy forecasting and reporting. Finally, it addresses the issue of public information needs in the restructured market.

Energy Policy Development Objectives

Sound energy policy is vital to several important public interests including California's economy, environment, and public health and safety. These public interests were clearly delineated by the Legislature in the original Warren-Alquist Act, in revisions to the Act over the last 20 years, and most recently in AB 1890. The primary objectives of these legislative enactment's are to protect and further fundamental public interests that affect, or are affected by, the production and use of energy in the State.

There are several different descriptions of the elements and goals involved in each of these public interests throughout these legislative enactment's. The following is a summary of the broad public interest objectives associated with energy that have been identified by the Legislature. These include:

- The continued growth and development of the State's economy.
- The maintenance of the general welfare and the public health and safety of the State's citizens.
- The protection of the environment including air and water quality.
- The conservation of energy and other natural resources.

Sufficient long-term supplies of cost-effective and environmentally sound energy, and the infrastructure to process and deliver supplies to citizens and businesses, are paramount to the continued growth and development of the California economy. This is true for all forms of energy including electricity, natural gas, oil and petroleum products,

as well as alternative fuels and technologies. As the State attempts to more fully rely on market forces to provide energy supplies, it needs the capability to monitor those market forces and gauge the success of new policies intended to realize competition.

The State is dependent on a robust and resilient energy system to meet a variety of today's challenges, as well as those of the future. One of today's challenges is gaining efficiency in the restructured electricity market by supporting workable competition, while at the same time protecting and furthering fundamental public interests. The success of public interest programs authorized by the Legislature in AB 1890 is critical to these goals. An additional challenge is assuring a reliable electricity system and longer-term supply sufficiency. The efficient use of energy, and reductions in the demand for energy in the State, especially at peak times, will serve to promote a healthier and cleaner environment for California. Investments in renewable and alternative technologies can also contribute to the protection of the environment and help to avoid serious depletion or irreversible commitment of energy, land, water and other natural resources.

The Energy Commission believes that these primary public interests and objectives continue to form the foundation of its energy assessment, reporting and policy development functions.

Policy Objectives For Electricity

For electricity, the Legislature has established some very specific objectives in the Warren-Alquist Act and AB 1890 that address public interests.

In the Warren-Alquist Act, the Legislature found and declared that:

“...electrical energy is essential to the health, safety and welfare of the people of this State and to the State economy, and that it is the responsibility of State government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of the general welfare and for environmental quality protection.”²

In AB 1890 the Legislature reiterated the essential nature of electricity by declaring the following:

“Reliable electric service is of the utmost importance to the safety, health, and welfare of the State's citizenry and economy. It is the intent of the Legislature that electric industry restructuring should enhance the reliability of the interconnected regional transmission systems...It is important that sufficient supplies of electric generation will be available to maintain reliable service to the citizens and businesses of the State.”³

AB 1890 also lays out additional policy objectives in moving from a regulated generation market to a competitive one. The Legislature's intent in passing AB 1890 was to achieve goals described as follows:

- The State's citizens and businesses should achieve the economic benefits of restructuring.
- The new market structure should provide competitive, low-cost reliable electric service.
- Customers in the new market should have sufficient information and protections.
- California's commitment to developing diverse, environmentally sensitive electricity resources should be preserved.⁴

The Energy Commission believes these fundamental public interest objectives should remain at the core of our forecasting and assessment and reporting responsibilities. Other State and Federal agencies and new market institutions also have responsibilities in the restructured electricity market. Under the current statutes governing the Energy Commission there may be overlap with other agencies in various aspects of the market. However, in examining its responsibilities related to the electricity market, the Energy Commission has attempted to eliminate areas of overlap or duplication of effort.

The Energy Commission believes that it shares a responsibility for assuring an efficient and reliable electricity system, along with the other affected entities created by AB 1890 such as the Independent System Operator (ISO), Power Exchange (PX), and the Electricity Oversight Board (EOB). In addition, the California Public Utilities Commission (CPUC) and Federal Energy Regulatory Commission (FERC), have jurisdiction over some activities that are crucial for assuring sufficient supplies of electricity in the State. The Energy Commission clearly recognizes that the Legislature intended that the ISO have responsibility in the restructured market for the efficient use and reliable operation of the transmission grid.⁵ The EOB has oversight responsibilities for the ISO and PX, as does FERC who holds primary regulatory jurisdiction over the operation of interstate or bulk transmission lines and related services.

The Energy Commission believes the ISO has a pivotal responsibility for the day-to-day operation of the interconnected electricity system. For these entities, the planning horizon for their assessment and forecasting responsibilities is focused primarily on the short-term. The ISO is in the process of developing a grid planning process that would examine the reliability needs of the electricity system for a five-year period. This process includes assessing loads, generation, transmission and ancillary services and the options available to assure a reliable electricity system for the five year, shorter-term planning horizon. The Energy Commission believes it can bring valuable information about the energy system to the ISO for use in whatever planning process is ultimately agreed upon. This includes information about load growth, the role of energy efficiency and distributed generation, natural gas supply and prices and air quality impacts from electric generation.

The Energy Commission, through its mid- and long-range assessment capabilities, can also provide key information and policy recommendations that can help assure that California has sufficient electricity supplies in the future that are affordable and environmentally sensitive. The information developed from the Energy Commission's assessment and analytical activities should serve as the foundation on which policymakers, especially the Legislature and Governor, address emerging electricity issues and establish sound energy policy. This information can also provide analytical bases to support the ISO's planning efforts and other market participants' decisions with respect to electricity.

One of the primary objectives of the Energy Commission in assessing and reporting on the restructured electricity market should be to inform the Governor and Legislature about whether the competitive generation market, and its structures, are meeting the goals and objectives outlined above. Once again, the Energy Commission's assessment of electricity system issues provides important input to help guide energy policy-makers. For example, the Energy Commission released a staff report last summer that raised the awareness of near-term reliability concerns in the newly restructured market, the findings of which have since become broadly accepted.⁶

In competitive markets such as the oil and petroleum product markets, the Energy Commission has found that the most effective means of assuring adequate supplies is by making accurate and objective information about that market readily available to the Governor, Legislature and the public. In the Warren-Alquist Act the Legislature directed the Energy Commission to acquire and analyze information in order to ascertain future energy problems and uncertainties regarding oil and petroleum products.⁷ By strengthening its on-going assessment capability for the electricity market, the Energy Commission can identify and raise impending or potential problems well in advance.

Changes in the Role of the Energy Commission

The Legislature, in the Warren-Alquist Act, established the Energy Commission's forecasting and assessment responsibilities for the electricity industry to meet broad public interest goals and objectives.⁸ While these forecasting and assessment responsibilities for the electricity industry were originally designed for the regulated monopoly environment in existence over twenty-five years ago, the underlying principles remain relevant today. The Legislature recognized the importance of assessment and analysis in preventing delays and interruptions in the orderly provision of electrical energy, protecting the environment, and conserving energy resources. A primary function of the Energy Commission's forecasting and assessment responsibilities has been to assure, through regulatory means, that sufficient generating facilities were licensed in the State to meet California's growing demand. This function was accomplished through the integrated assessment of need (IAN) analyses in the Energy Commission's *Electricity Report*, as well as through its energy efficiency and RD&D activities, which are not the subject of this report.

The IAN analysis established criteria for determining whether a proposed power plant, as described in its licensing application to the Energy Commission, was in conformance with an adopted forecast of statewide and service-area need. In practical terms, the IAN provided a “test” that new generation proposals have to pass a test that determined whether or not new generation supply in the form of a power plant was needed to meet the demand for electricity. Under this framework, utilities built power plants to serve the needs of their ratepayers and, consequently, ratepayers bore the financial consequences for under- or over-construction of power plants. As a result, the Energy Commission’s responsibilities included planning for, and licensing facilities consistent with, the integrated assessment of need for electricity to protect ratepayers from either outcome.

Since that time, AB 1890 fostered a competitive generation industry and the Energy Commission believes that its role should no longer be centered on determining the need for electricity and then licensing generation facilities that conform to that need. The Legislature recognized this and eliminated the demand conformance criteria portions of the Warren-Alquist Act by passage of SB 110. In addition, the issues being raised before the Energy Commission, since the electricity market restructuring, call for a shift in focus away from the regulatory tools of the past.

One of the fundamental principles of AB 1890 is that the market, rather than regulators, should determine the need for new generation supply in the form of power plants. Investor-owned utilities are no longer proposing to construct power plants and have sold off the majority of their power plant assets. Since private companies are now making the lion’s share of investments in what are now termed “merchant power plants”, the protection of ratepayers from over- or under-supply is no longer the driving issue behind this new market structure. Nor does the Energy Commission believe that its forecasting and assessment and policy reporting functions should have this as their primary focus.

The Energy Commission’s forecasting and assessment and reporting responsibilities need to reflect this fundamental shift from regulatory to market forces. The Energy Commission’s role is already in the process of changing to one in which information helps provide signals about future trends in electricity supply and demand. The Energy Commission also proposes to examine the possible consequences to public interests such as the economy or environment associated with a continuation of certain market trends. For example, too little capacity leads to lower reliability and higher prices. The Energy Commission can use mid- to long-term forecasts to inform policies designed to increase capacity or decrease demand in the future. For such policies to take effect, long lead times are often required. In this way, information, not regulatory tools, can be used to help protect and further public interest goals.

Energy Commission Mission and Functions

AB 1890 deregulated the generation of electricity, introduced retail competition, and created new market institutions. These changes pose new and different issues for policymakers than those facing the State when the Energy Commission was created

over twenty-five years ago. Last year, in response to supplemental budget language, the Energy Commission evaluated the effects of electricity industry restructuring on its mission.⁹ It reported that fundamental statewide interests in energy, and the essential nature of electricity, provide a sound public interest rationale for continuing a number of Energy Commission functions, including trends assessment, market monitoring and policy development.

The Energy Commission also conducted a two-year proceeding, the Energy Market Information Proceeding, to examine information-related issues associated with the restructured electricity market.¹⁰ It initiated this proceeding to keep its analysis, data collection and information dissemination in step with industry restructuring. These activities are inextricably linked to the broader goals/objectives and functions of the Energy Commission. Over the course of the proceeding, and in other forums over the last few years, different affected parties and stakeholders have expressed a variety of views about the Energy Commission's functions and responsibilities, discussed below.

After hearing a range of views on the subject, the Energy Commission concluded that restructuring has fundamentally changed the nature of the electricity industry from one that was dominated by highly regulated, integrated utilities, to one that relies, to a large extent, on market forces and competition.¹¹ The Energy Commission further noted that restructuring, in and of itself, does not eliminate the need for it to conduct its assessment, market monitoring and policy development functions. It determined that the public interests affected by the production and use of electricity provides a sound rationale for continued assessment and analytical activities. Similarly, the Energy Commission believes that restructuring does not eliminate the need for energy reporting to meet the policy development needs of the Governor and Legislature and the information needs of the public.

In fact, the need for accurate and objective analysis and information may increase as a result of electricity restructuring. In the absence, or privatization, of such information, the policy goals the Legislature established, especially reliability and price stability, are at risk. While such privatization of information and analysis may occur in relation to the restructured market once the market matures, it has not done so yet.

Parties to the proceeding raised issues about the Energy Commission's jurisdiction and authority with respect to these functions, in light of industry restructuring. Thus, the clarification of the Energy Commission's functions and activities was an important element of dealing with information-related issues.

Some parties have suggested that restructuring has eliminated the need for a number of Energy Commission functions including forecasting and reporting and the activities that support them. For example, some parties argued that restructuring eliminated the need for the Energy Commission to have any electricity-related functions since new market institutions and entities, such as the ISO, PX and EOB would now take over those functions.

Other parties have contended that the Energy Commission should no longer collect data from individual generators, because the market is deregulated and many of the generators are now private companies, not utilities. More recently some parties suggested that the passage of SB 110 eliminated the requirements for the Energy Commission to prepare an ***Electricity Report***.

On the other hand, a number of parties supported the continuation of the Energy Commission's forecasting and assessment and reporting functions because of the value of the information they provide. Several power plant developers noted that financial institutions relied on Energy Commission reports and analyses as an independent source of information on the electricity market that had helped them in securing investments in the new electricity market.

Other parties noted that new market institutions are focused on near-term issues and problems, not mid- and long-range issues that have traditionally been assessed by the Energy Commission. Still others note that fundamental public interests, such as the environment, public health and safety, economic growth, and land use, were beyond the purview of institutions governed largely by market interests, and were better handled by a public interest agency such as the Energy Commission.

Energy Commission Forecasting and Assessment And Reporting Responsibilities

Statutory language describing the Energy Commission's forecasting and assessment and reporting responsibilities is out of step with restructuring. As previously noted, the original focus of those activities was to develop an integrated assessment of need for application in power plant licensing cases conducted at the Energy Commission. As such, the existing statute requires specific data, information and analyses that are no longer germane. In addition, the current statute requires the Energy Commission to report specific findings and recommendations in an ***Electricity Report*** that are no longer appropriate.

The Energy Commission recommends that the statute outlining its forecasting and assessment responsibilities be changed to better accommodate the restructured market. The Energy Commission recommends that its forecasting and assessment responsibilities for the restructured market should be focused on the following:

- Assessing trends in energy supply and demand, and the outlook for market clearing prices and for supply sufficiency to meet forecasted demand growth;
- Evaluating potential impacts of the electricity system on the economy, environment, public health and safety, and conservation of resources.
- Identifying impending or potential problems/uncertainties in the electricity system and market, and recommending solutions.

- Evaluating whether the restructured energy markets are meeting the policy objectives of AB 1890 and previous natural gas deregulation including the provision of: economic benefits; competitive, low-cost reliable services; customer information and protection; and environmentally-sensitive energy supplies.

Information Needs Of The Public And Market Participants

The Energy Commission's Energy Market Information Proceeding was primarily concerned with the need for data to fulfill its trends assessment, market monitoring and policy development obligations to the Governor and Legislature. During that proceeding the staff identified a number of analytical and information dissemination activities important to external stakeholders. Local agencies, consulting firms, research laboratories and firms wanting to venture into the electricity and natural gas markets in California submit frequent requests for data and analytical products. Dissemination of data and information by the Energy Commission can enhance market efficiency, make market entry more feasible by new market participants, and facilitate the inclusion of public goals into private decisions.

In particular, aggregate energy consumption and supply information is important to the development of well-functioning retail and wholesale markets under restructuring. Customers need timely and objective information, like that provided by the Energy Commission, when comparing their energy rates to other ESP providers. Similarly, information about retail market shares is necessary for energy retailers in planning and implementing their marketing strategies. The Energy Commission can use geographically-defined trends in electricity consumption and retail prices to help explain expected and unexpected events, and to help the public understand variations in market clearing prices. The Energy Commission has the expertise to track and anticipate effects of the newly competitive retail electricity market. This activity is similar to what the Energy Commission does as part of its regular monitoring of the petroleum market. An objective, neutral provider of information may well be necessary to gain an early, accurate assessment of the impacts of competitive market behavior.

While the Energy Commission did identify some uses of data and information on electricity supply and demand by market participants and the public, it did not conduct a complete or exhaustive assessment of these needs. The Energy Commission notes that the Legislature assigned some specific information dissemination responsibilities to the CPUC in SB 477. This included providing information to assist consumers in making service choices and evaluating competing electric service options.

In addition, the Energy Commission provides public information regarding the source of power they are purchasing from new market participants to help in selecting new retailers. In enacting SB 1305 (statutes of 1997) the Legislature identified a need for "reliable, accurate, and timely information regarding the fuel sources for electric generation offered for retail sale in California." The Energy Commission's regulations

implement this law by requiring electricity retailers to provide their customers with a “Power Content Label.” If the retailer resells power from specific generation sources it can identify, the label describes the fuels or technologies employed by these sources. If the retailer identifies no particular sources, the label describes the mix of the fuels and technologies generally employed to generate electricity in or for California. This mix, known as “net system power,” is estimated each year by Energy Commission staff based on consumption in the previous year, after subtracting out all the electricity retailers attributed to specific sources.

End Notes

- ¹ Energy Market Information Proceeding, Docket # 97-DC&CR-1, established in June, 1997.)
- ² PRC Section 25001.
- ³ Public Utilities Code Section 330.
- ⁴ Chapter 854 Statutes of 1996, Section 1 (a).
- ⁵ Public Utilities Code Section 345.
- ⁶ High Temperature and Electricity Demand: A System Adequacy Assessment, Energy Commission Staff Report, July 1999.
- ⁷ PRC Section 25005.5.
- ⁸ PRC Sections 25300-25308.
- ⁹ Effects of Restructuring on the Mission of the California Energy Commission, California Energy Commission, January 8, 1999, P150-98-001.
- ¹⁰ Energy Market Information Proceeding, Docket # 97-DC&CR-1, established in June, 1997.
- ¹¹ The Energy Commission adopted findings of fact, conclusions of law, and policy conclusions dealing with its information-related roles and functions in the restructured electricity market in June 1998 as part of the Energy Market Information Proceeding.

SECTION II: CONSOLIDATING POLICY REPORTING OBLIGATIONS

As previously mentioned, the Energy Commission's current statutory mandates require several policy reports that must be completed on a biennial cycle, including the ***Electricity Report***, FR and BR.¹ Market participants and other parties, as well as Commissioners and staff, have suggested that the existing approach to separate policy reports no longer makes sense. In the context of electricity restructuring, many believe that the currently mandated reports have too long a lead-time to be effective and useful. Data and information is frequently out of date by the time the policy reports are adopted and released. Issues not identified at the beginning of a process often get overlooked, or deferred to the next report cycle or deadlines for the report are extended beyond statutory limits to accommodate emerging issues.

The Energy Commission believes that the multiple independent reports currently required under the statute are not well suited to policy development for today's energy issues and markets. It also agrees with many other parties and staff that the current mandate for the ***Electricity Report*** is cumbersome and unnecessarily complicated. The current process for preparing these multiple reports requires duplicative, time-consuming procedures resulting in inefficient use of resources for the Energy Commission and outside parties who want to participate in the policy report process. The following is a discussion of issues associated with the Energy Commission's current reporting responsibilities and recommendations for changes to these responsibilities.

Problems With The Current *Electricity Report* Process

Over the last two years, in many different forums, the Energy Commission has heard concerns from outside parties and staff that the currently mandated ***Electricity Report*** is poorly suited to the restructured electricity market. The existing ***Electricity Report*** mandate requires a high degree of detailed information on supply and demand. This requires multiple hearings where specific data, assumptions and findings or conclusions are adjudicated.² This process requires an immense time commitment for staff and outside parties and a degree of analytical precision driven by regulatory tools of the past. Different kinds of data and analysis are required to address issues under restructuring.

Even with the changes made by SB 110, the remaining language in current **Electricity Report** mandate is not well suited to the forecasting, assessment and policy development needs that are necessary for the restructured market. The Energy Commission's focus for assessment and analyses has already moved away from serving these regulatory approaches toward an information focus on demand, supply, system and market structure as the basis for policy development. However, the current statutory focus on regulatory outcomes limits the Energy Commission's ability to meet the needs of the electricity market. The Energy Commission recommends that the planning and forecasting sections of the Warren-Alquist Act be revised to better meet the forecasting and assessment needs of today's electricity market.³

The current statutory language was built around the submission of reports by utilities that presented the demand forecasts and supply plans, including supporting data and assumptions, for each utility's service areas.⁴ This is referred to as the Common Forecasting Methodology (**CFM**) process in the statute. As discussed in more detail in **Section III**, utilities are no longer the primary sources for data on the electricity market. In addition, utilities have reduced their efforts in preparing forecasts and supply plans as a result of their changing role in the electricity market. As a result, it is no longer appropriate that the assessment of the electricity market, as outlined in the mandate, be based primarily on utility submittals as the central vehicle for collecting data on energy demand and supply.

The Energy Commission has already recognized the changing role of utilities and the available sources of data on the electricity industry and is proposing major streamlining and changes in its approach to data collection, as discussed in **Section III**. The Energy Commission recommends wholesale revision of sections of the Warren-Alquist Act dealing with the **CFM** and **QFER** utility submittals. Changes to statutory language in the Warren-Alquist Act should codify the Energy Commission's new approach to data collection.

The current statute focuses on the statewide and service area requirements as the basis for its assessment and analyses of electricity supply and demand. While statewide and service area information is still relevant, more localized information is necessitated by the new market structure. For example, the ISO uses sub-regional areas for its transmission planning and congestion management. In addition, the ISO is currently examining the possibility of moving away from currently defined zones to a more localized approach for provision of electricity services. This would require an even finer level of geographic detail. In order for the Energy Commission to develop useful information for the ISO to use in transmission planning and congestion management, it must be able to match the needs of the market structure in coordination with the ISO. The Energy Commission recommends that the mandate be amended to add language that allows us to develop information on "geographic areas that are useful for system assessment purposes" or similar broad language.

The statute requires a "quasi-legislative evidentiary" process, with hearing orders and pre-hearing conferences, as well as sworn testimony and cross-examination.⁵ This

language was added to the statute during the **BR** years, when a very precise Identified Deferrable Resource (IDR) was used as the basis for establishing bids for resource needs to be met by independent energy producers. The Energy Commission believes this highly formal process is no longer necessary for the purposes of developing policy recommendations. Sections of the mandate outlining the procedures for the conduct of hearings should be eliminated and replaced with language that allows for effective public input to the energy policy development process, without the stringent requirements discussed above.

The Need For Policy Report Consolidation

The Energy Commission has also heard from outside parties that the current process for developing separate policy reports on electricity, fuels and transportation, energy efficiency and energy technologies, as well as the **Biennial Report** on energy, are overly complicated and not useful in the restructured environment. The preparation of these separate reports consumes a tremendous amount of time and resources, both for staff and outside parties. Unfortunately, by the time the reports are adopted and released two years later, much, if not all, of the data and information are out-of-date. This is particularly troublesome in markets, such as petroleum products and electricity, where circumstances are in a constant state of flux. A report that makes recommendations only every two years is likely to have very little positive effect in dealing with the energy issues that may have already passed by the time the recommendations are released.

In addition, issues that emerge over the course of a policy report proceeding are not easily accommodated in the existing policy report process. As currently mandated, issues are identified at the beginning of a proceeding, then the data collection and analysis to address these issues is conducted, input is sought by outside parties, and the reports are then adopted. Either emerging issues are deferred to the next report cycle or the deadlines for the reports are extended beyond the statutory deadlines to deal with them. The Energy Commission believes this type of process must be replaced with a process more suitable for addressing not only the mid-and long-range issues, but also to address short-term emerging issues.

Previous policy reports tended to be in-depth, technically complex and academically oriented reports. These types of reports may have served the needs of more sophisticated market participants, but they are not well suited to the needs of policy-makers and the public. The Energy Commission believes that its policy reports can do a better job of translating technical analysis and complex policy issues into information and recommendations that the Governor, Legislature and the public can easily comprehend.

Proposal To Consolidate Energy Commission Reporting Requirements

The Energy Commission is recommending a consolidated policy report process to make its policy recommendations more timely, relevant and useful.⁶ Under this new process, the Energy Commission would produce one ***Integrated Energy Policy Report*** on a biennial cycle. This report would include a volume that presents policy recommendations based on an in-depth and integrated analysis of the most current and pressing energy issues facing the State. It would feature a streamlined approach to dealing with issues in the various markets and energy systems relative to previous reports that required a comprehensive and very detailed assessment of each market or fuel type.

To facilitate the analysis, energy markets and systems would be grouped and assessed in three subsidiary volumes:

- Electricity and Natural Gas Markets;
- Transportation Fuels, Technologies, and Infrastructure; and
- Public Goods: Energy Efficiency, Renewable Technologies, and Public Interest Energy Research.

The results of analyses of these component parts of California's energy system would then be re-assembled into a comprehensive energy system analysis and report. This integrated approach would assure that inter-fuel or inter-market effects are taken into consideration, and that any conflicting goals and strategies between fuels and market could be identified and addressed. In this manner, the Energy Commission can provide a more informed evaluation of trade-offs that must be made when developing energy policy across different markets and systems.

The Energy Commission recommends this new policy report be due to the Legislature by November 1 of each odd year. The currently mandated reports are timed for the beginning of the fiscal year. The new reports' findings and recommendations would be better timed for the development of legislative and budget proposals if it were released prior to the first quarter of the calendar year.

To address the issue of timeliness and relevancy, the Energy Commission proposes to produce an Annual Energy Policy Review to be issued in the off years between report cycles. The analysis and policy recommendations in this annual product would not be addressed in the same depth proposed for the biennial ***Integrated Energy Policy Report***. However, it would provide a mechanism to identify and provide input to the Governor and Legislature on emerging energy issues in a more-timely manner.

The Energy Commission also recommends that an efficient and timely public input process be designed for the development of its policy report. The Energy Commission should allow ample opportunity for public input, but not conduct so many workshops or

hearings that parties are unnecessarily burdened. The Energy Commission should explore ways to use information technology to assist the public in tracking its policy development process and in providing comment and other input. Parties should not be required to travel to multiple hearings or workshops to meaningfully participate in the development of findings and policy recommendations of the Energy Commission.

End Notes

¹ The Energy Commission was asked to examine reporting requirements in Sections 25300 to 25310.4 of the Public Resources Code, also referred to as the Warren-Alquist Act, which include an Electricity Report (ER), Fuels Report (FR) and the Biennial Report (BR). The Electricity Report (Sections 25300-25308) incorporates by reference findings on alternative technologies outlined in Sections 25604. This section requires the Energy Commission to produce a biennial report on energy development trends report referred to as the Energy Development Report (EDR). The Biennial Report (Section 25309) incorporates the biennial report on energy conservation findings required by Section 25401.1, also referred to as the Energy Efficiency Report (EER). For this reason, the Energy Commission has included these two additional reports in its examination of reporting responsibilities.

² PRC Sections 25300-25308.

³ PRC Section 25300.

⁴ PRC Sections 25301-25304 and Section 25320.

⁵ PRC Section 25307.5.

⁶ This would include reports required under PRC Sections 25300-25310, Sections 25604, Section 25401.1 and the newly added Section 25309.3 requiring a report on generator performance.

SECTION III: DATA REQUIREMENTS TO MEET ASSESSMENT AND REPORTING OBLIGATIONS

Introduction

A critical input to the Energy Commission assessment, market monitoring and policy development activities are essential data and accurate information on electricity supply and demand. The Energy Commission has assessed the kind of data needed, the alternative means to acquire data, and developed a new approach to data collection that is aligned with the restructured market.

In order to bring its data collection activities in line with the restructured electricity market, the Energy Commission initiated a rulemaking to outline necessary revisions to its existing data collection regulations.¹ In this proceeding, the Energy Commission examined a number of issues associated with acquiring sufficient data to allow it to inform the Governor, the Legislature, and the public about the mid- and long-term outlook for electricity supply and demand and to develop robust strategies under a range of possible future scenarios.

These included:

- What data was needed to support its assessment capability under restructuring?
- What alternative approaches to data collection were available in the restructured market?
- What were the overall costs and benefits of alternative data collection alternatives?

The Energy Commission's full report on data issues is presented in Appendix A. The following is a summary of the major findings of the Energy Commission with regard to data collection issues raised by the Legislature in SB 110. The following also outlines recommendations for changes to the Energy Commission's authority for data collection.

Past Data Collection Practices

Under the monopoly utility paradigm, the Energy Commission conducted ongoing collection of data on electricity and natural gas consumption and supply. Two broad categories of requirements ensure that utilities provided both historic and forecast

information to the Energy Commission *through Quarterly Fuel and Energy Reporting (QFER)* and *Common Forecasting Methodology (CFM)*. Historically, the Energy Commission collected data on generation output and fuel use, as well as electricity and natural gas consumption, through the *QFER* process.² On the supply side, *QFER* included different reporting requirements for generating facilities differentiated by their ownership (utilities, private entities selling power to utilities, private entities producing power for their own use onsite) and by facility capacity. On the demand side *QFER* has served as the primary vehicle for collecting energy consumption and revenue data.

Forecasts of future supply and demand and related information was acquired by the submission of data by utilities under the *CFM* for each *Electricity Report* cycle.³ Unlike the *QFER* data collection forms that were adopted once and remained in place for continuing data collection, *CFM* was explicitly revised and adjusted as the first step of each *Electricity Report* cycle. The concept was to adjust the specific filing requirements to satisfy the specific information needs of the likely issues to be addressed in each *ER*. *CFM* formed the framework for utilities to file their demand forecasts and resources plans.

One of the primary uses for the above data prior to restructuring was for the Energy Commission to develop and recommend State energy policy through an open process of determining trends, developing projections and assessing options for meeting anticipated demand growth. The resulting *ER* included a determination of how much electricity was needed and explored alternatives to utility construction of new generating facilities or power plants. With changes made by SB 110, the primary focus for the *ER* and proposed data collection is no longer on the regulatory determination of need, as discussed in the previous sections.

Restructuring has resulted in changes to the Energy Commission's need for data. It has also affected the sources and methods available for acquiring data discussed in the following sections.

Impact of Restructuring on Data Collection

The Energy Commission's past data collection practices, like its assessment and reporting statutes, were designed to meet the needs of the regulated monopoly electricity environment. Under the old framework, investor-owned and municipal utilities were the primary agents generating, or contracting for, and delivering electricity to end-use customers. As such, these utilities were the principle sources of data and information on the electricity industry.

Because utilities controlled the great majority of the generating capacity in the State, the Energy Commission's data collection regulations relied on these utilities as the primary source of data on electricity generation. Since the utilities were granted a monopoly to serve a specific service territory, utilities acted as the sole providers of retail electricity customer and so were the logical source for data on electricity consumption under regulations.

Restructuring of the electricity industry has resulted in a number of changes that affect the sources of data and the kinds of data available. New market participants and institutions have emerged as a result of restructuring. These include energy service providers, aggregators, scheduling coordinators, independent energy producers and numerous other market players and institutions such as the ISO and PX. The new market players have taken over the roles of traditional utilities in the restructured market. This means that government will no longer be able to rely on utilities as the primary source for data for the electricity industry.

On the supply side, restructuring has created new classes and types of independent generators who now sell directly into the electricity market. In addition, investor-owned utilities have sold off the majority of their generating facilities to private companies. Finally, new power plants being proposed for construction in the State are also owned and financed by private companies. Thus, independent power producers and private companies are an increasingly important source for data on generation facilities in the State. Utilities no longer have an obligation to serve, so they no longer should be placed in the role of obtaining generator data and forwarding aggregates of it to the Energy Commission.

On the demand side, retail electricity customers can now choose from competing electricity suppliers. New energy service providers have emerged to serve the needs of an increasing number of electricity customers throughout the State. Thus, energy service providers have become a progressively more important source of data on retail sales of electricity. The Energy Commission expects this trend to continue. Similar patterns exist for natural gas, with gas marketers and core transport agents playing a larger role in retailing energy supplies to end-users.

The former investor-owned utilities, now utility distribution companies, have retained an obligation to distribute electricity services, which remain as regulated monopolies under restructuring. This changing role has reduced their primary responsibility for forecasting and planning for the needs of all customers in their service territories. While these utilities may no longer be the primary source for data on electricity consumption, they are a primary source for data related to the distribution of electricity.

Some parties to the Energy Commission's data rulemaking suggested that the Energy Commission should continue to rely on utilities as the primary source of data on generators and consumers. In response, utilities argued that their filing of data on behalf of other market participants was inconsistent with the principles underlying restructuring, as well as the new market structure.

The Energy Commission determined that the most equitable distribution of data collection responsibilities would be to have owners of generating facilities, whether utilities or private firms, file data on those generators. On the demand side, the Energy Commission determined that entities selling retail electricity and natural gas, whether utilities or private firms, should provide data on their customers' energy consumption. Collectively, these two decisions resulted in a major shift in responsibilities for data

submission away from utilities to new market participants. This distribution was based on the principle that entities performing equivalent function or providing equivalent services should have equivalent data submission responsibilities.

Energy Commission Data Collection Authority

The Energy Commission was granted very broad analysis and data collection authority under the Warren-Alquist Act to allow it to monitor energy industries and assess mid- and long-range trends in order to develop energy policy recommendations for the Governor and Legislature.⁴ The Warren-Alquist Act requires the Energy Commission to analyze supply and demand for all energy markets and energy products and services including, electricity, natural gas, petroleum and petroleum products, transportation and alternative fuels, energy efficiency and renewables. With respect to data to support these analyses, the WAA outlines the following data collection authority:

“The data and information shall be derived from all sources, including but not limited to, electric and gas utilities, oil and other energy producing companies, institutions of higher education, private industry, public and private research laboratories, private individual, and from any other source the commission determines is necessary to carry out its objectives under this division.”⁵

The Energy Commission examined its authority to collect data in the restructured market as part of its examination of data issues referred to above. Over the course of the proceeding, several parties, primarily electricity Energy Service Providers (ESPs) raised questions regarding the Energy Commission’s authority over what they characterize as “non-regulated” ESPs. They contended that the Energy Commission’s current regulations only require investor-owned utilities and municipalities to report data. ESPs asserted that, if Section 25108 of the Warren-Alquist Act served as the basis of its statutory authority, the ESPs do not meet the definition of “utilities” and, therefore, are excluded from its jurisdiction. Natural gas marketers have not made corresponding claims because the statute (PRC Section 25320 (a)) explicitly includes these private entities in the list of those who provide natural gas consumption data to the Energy Commission.

Some parties objected to what they characterized as the Energy Commission’s “expansion of its authority” by extending data-collection activities to new market entities in the restructured market place. Several parties also argued that the Energy Commission’s **CFM** is no longer appropriate in a restructured market and should not be extended to new market entities.

As outlined above, the Energy Commission’s data collection authority includes private industry, private individuals and other sources of data. In its findings during the data proceeding, the Energy Commission concluded that restructuring of the electricity industry does not change the Commission’s authority to collect data necessary for assessment and policy development purposes. It determined that there is ample

authority for the Energy Commission to collect data for these purposes under the above statutory provisions.⁶ It further concluded that the Energy Commission has authority to collect data from ESPs and utility distribution companies under the broad language of these provisions.

In response to ESPs concerns about jurisdiction and authority, the Energy Commission noted that, contrary to their assertions, ESPs are not wholly unregulated. For instance AB 1890 and SB 447 (California Statutes of 1997) grants the CPUC specific authority over the ESPs for the purposes of registering ESPs and providing for consumer protection. With respect to the Energy Commission's jurisdiction it concluded that: 1) ESPs are utilities as defined under Section 25108; and 2) regardless of whether they meet the definition of utilities provided in Section 25108, the Energy Commission has authority to collect data from ESPs under provision 25216 and 25216.5(d). Despite this finding, ESPs have continued to raise questions about the Energy Commission's authority to collect data from them.

The Energy Commission recommends that its jurisdiction over private market participants be clarified through statutory language specifically allowing the Energy Commission to collect data from restructured electricity market participants.

The Energy Commission agrees that the **CFM** process is currently out of step with industry restructuring and should be revised. This portion of the Warren-Alquist Act was designed specifically for a fully regulated, vertically integrated, monopoly industry. The electricity industry is no longer dominated by regulated utilities and, therefore, the **CFM** mandate is no longer consistent with the new industry structure. Some portions of the statute dealing with **QFER** also call for submission of utility reports that are no longer necessary under the Energy Commission's new approach to data collection.⁷ The Energy Commission recommends revisions of these portions of the statute to conform them to the detailed decision adopted by the Energy Commission at the conclusion of its information proceeding.⁸

The Energy Commission's Need For Data

The Energy Commission reviewed the data that would be necessary for it to carry out its assessment, market monitoring and policy development requirements in the restructured market. The following is a summary of those primary data needs.

On the supply side of the electricity market, the Energy Commission uses data on electricity generation (or output) and power plant characteristics as primary inputs to its electricity system analysis. This data includes current and historic data on electricity production, resource mix, and fuel consumption. The data is used to assess the California electricity market and its supply and demand relationships with adjacent regions in the interconnected Western Grid.

This includes assessing supply-side performance, identifying trends in electricity system performance and the potential concerns and impacts on public interests should these

trends continue. To do this, the Energy Commission needs data on monthly generator output, fuel use (and historic fuel prices for larger power plants), filed on a quarterly basis. It also needs data on the power plants characteristics such as plant identifiers, plant operating data, operation and maintenance (OandM) costs, fuel price data, and emission factors.

On the demand or consumer side, the Energy Commission uses data on electricity and natural gas consumption, consumer characteristics and load research. This includes data on electricity and natural gas sales to end users by commercial companies and regulated utilities, self-generation of electricity by ends users. Also Included is the production of natural gas that is self consumed by the producer or distributed to an end user outside of any utility's distribution network.

An important feature of this consumption data is the classification of end-use customers by economic activity for certain categories of customers, currently referred to as Standard Industrial Code (SIC). The Energy Commission also needs data on consumer characteristics including structural, demographic, and geographic characteristics that allow it to understand and explain evolving consumption patterns of electricity and natural gas. Finally, the Energy Commission needs load research data including hourly load shapes or load profiles for utility systems, for different customer sectors and different end-uses.

The Energy Commission recommends these generator and consumer data requirements be codified by amendments to the statute. To ensure that entities submit the necessary data to the Energy Commission to allow it to meet its obligations to the Governor and Legislature, the Energy Commission recommends that provisions to assure compliance be added to the statute. The Energy Commission currently has such provisions under PIIRA, and it recommends the enactment of similar provisions for electricity and natural gas data.⁹

Alternative Means Of Acquiring Data

The Energy Commission examined a number of options to acquire data other than direct data collection that had been relied on in the past. Considerable time and effort was devoted to working with parties to examine the range of alternatives available for the different consumer and generator data inputs. The options and alternatives varied depending on the type of data being sought. The primary alternatives examined included:

- Using publicly available data from other sources including government agencies and purchase of private data;
- Using estimation techniques to develop proxies for actual data; and
- Performing statistical sampling as a substitute for direct data collection.

The Energy Commission identified numerous areas where parties file data, similar to that needed by the Energy Commission, to other government agencies – including the Federal Energy Information Agency (EIA) and FERC. The Energy Commission proposes to accept copies of data filings to these other agencies to meet specific data requirements for generator and consumer data. These include data on load shapes and generators' output.

In addition, the Energy Commission identified several areas where estimation techniques could be used for a number of data elements including power plant characteristics, fuel prices and revenue data.

The Energy Commission also examined using statistical sampling and surveys as a means of acquiring data on energy consumption, generator output, power plant characteristics and consumer characteristics. For generator output and energy consumption data, the Energy Commission discovered that the costs of sampling or surveys to get an accurate picture of the generation and consumption in the State was likely to be several times more expensive than direct data collection from different generators and retailers.

The Energy Commission found that many power plant characteristics would lend themselves to sampling along with the development of other estimation methods. As a result of this finding, the Energy Commission staff is in the process of developing estimation methods for a number of these variables. Staff will also rely on statistical sampling and other research to collect a number of consumer characteristics and load data. Finally, the new approach to data collection requires staff to develop a database on power plant characteristics that would be updated by generators every two years. These changes result in a major shift of data collection responsibilities away from market participants to the Energy Commission.

A final alternative that was suggested by some parties was that the Energy Commission purchase data from private firms instead of collecting it from market participants. The Energy Commission was not able to identify any specific firms from which it could purchase data on generators or consumers. Despite the fact that the parties who suggested this alternative were repeatedly invited to identify such sources so the Energy Commission could examine them; parties in the proceeding identified no specific private firms.

Some parties suggested that alternative methods should be use in lieu of any direct data collection of generator or consumer data. While this approach would completely eliminate any cost or burdens on market participants for data collection, it would result in much higher costs for the Energy Commission and the public for data collection.

In addition, the Energy Commission discovered that not all of the data it needs could be acquired through these alternative methods without unreasonably compromising the accuracy and quality of the data. The Energy Commission believes that direct data collection is, in some specific cases, the most efficient and equitable method to collect

these data elements. However, the Energy Commission found that direct data collection was not appropriate for all data elements.

The Costs And Burdens Of Data Collection

As a result of the Energy Commission's examination of alternative means of acquiring data, it has developed a new approach to data collection. This approach contains a combination of methods that are designed to acquire specific data needed by the Energy Commission in the most efficient and cost-effective way possible to meet its responsibilities.

Over the course of the Energy Commission's proceeding on data issues, one of the primary concerns of parties was that the new data collection regulations do not impose costly or overly burdensome requirements on market participants. Some parties believe that imposing any direct data collection requirements on new market participants would place them at a competitive disadvantage. They asserted that the costs of collecting data could negatively affect the competitive market by imposing unnecessary costs on consumers or further reducing the already slim profit margins of new market participants.

One of the principle goals of the Energy Commission in designing a new approach to data collection was to minimize costs and burdens for all market players, not just new market participants, but also utilities and the Energy Commission staff. The Energy Commission assessed and balanced the actual burden of providing data against the need and uses for that data. The Energy Commission believes, based on its understanding of the costs associated with meeting the reduced data requirements in its new approach, that the public benefits justify the reporting requirements.

The Energy Commission is proposing major streamlining of data collection to accommodate the objective of reducing burdens on market participants in the restructured market. It struggled with issues of equity in deciding what to require of both the new market participants, including ESPs and independent generators, and the remaining utility providers.

The Energy Commission struck a balance between the competing interests by not placing undue burdens on new market participants, recognizing that some of the new participants are small companies with limited resources functioning in a market with slim margins. At the same time, the Energy Commission resisted the temptation to rely on the existing monopoly entities for data that is no longer appropriate for them to file on other parties' behalf. The Energy Commission also recognizes that many of the past resource planning activities, that were the source of much of the data filed by utilities in the past, have been unilaterally reduced by the utilities themselves. Finally, the Energy Commission shifted substantial burdens away from market participants and onto the Energy Commission staff for developing a number of data elements. In order to accomplish these transfers, however, the Energy Commission requires a budget augmentation of approximately \$4.5 million per year.

The Confidentiality And Disclosure Of Data

Several parties to the Energy Commission's data proceeding raised concerns about confidentiality and possible disclosure of commercially-sensitive data. After carefully reviewing the record and the existing confidentiality provision, the Energy Commission has concluded that in some specific cases proprietary information is necessary for the Energy Commission to carry out its assessment and reporting functions.

The fact that data is competitively sensitive does not relieve market participants from the obligation to provide these data to government agencies. In fact, the Legislature adopted a statutory scheme in the Public Records Act that allows State agencies to collect proprietary data to conduct their business while protecting the data from disclosure. These mechanisms have been effective in enabling agencies to use confidential data and protect from its release. The existing statute recognizes that portions of electricity, natural gas, and petroleum data may be confidential and provides mechanisms for such designation and protection. The Energy Commission has a long history of collecting confidential data without releasing these data under the **PIIRA** and **QFER**.

In its approach for collecting generator and consumer data, the Energy Commission has already minimized the amount of confidential information it proposes to collect to that which is absolutely necessary to do its job. The Energy Commission is exploring additional options to ensure that confidentiality data will not be released, including a review of internal procedures for protecting confidential data.

Parties to the Energy Commission data proceedings raised concerns about the Energy Commission's existing confidentiality regulations and provisions for disclosure. Utility distribution companies are particularly concerned about protecting customer privacy with respect to consumption data. They have suggested that current disclosure provisions may not adequately protect against inadvertent disclosure. As a result, the Energy Commission is initiating a process to revise confidentiality regulations while its data collection regulations are being developed.

Several parties and staff suggested that statutory revisions be made to bring confidentiality of electricity and natural gas data to the same level of **PIIRA** data.¹⁰ The Energy Commission recommends that statutory protections of confidential data, similar to those used for **PIIRA**, be added to the statute.

Other Data Needs

Petroleum Industry Information

Although not directly related to electricity restructuring, the Energy Commission may require additional data on the petroleum industry to allow it to effectively carry out its responsibilities for trends assessment, market monitoring and policy development on oil

and petroleum product issues. Even though the Energy Commission collects a great deal of petroleum-related data, there are still some areas of interest where insufficient data hampers its ability to adequately analyze and respond to inquiries from the Legislature and other policymakers.

Price volatility for gasoline in California has become a growing issue of concern in the State. Although pricing information is currently collected for various types of petroleum products, it is reported only on a statewide basis. To better respond to price spikes, the Energy Commission needs to be able to assess the extent and duration of these episodes with greater precision. Regional data is necessary to differentiate sub-regional impacts. In addition, the frequency of data submission may need to be increased to allow the Energy Commission to determine how rapidly a price spike propagates throughout the State. Price information on a weekly basis, segregated by various sub-regions of the State would be necessary to adequately assess the extent and impact of gasoline price-spike phenomenon.

In addition, information on imports and exports of refined products is currently collected on a monthly or annual basis. This data is not reported frequently enough for the Energy Commission to perform relevant analysis during periods of high price volatility and spot shortages. Information on imports and exports of refined products is also aggregated into general categories that do not allow a complete understanding of gasoline supply and price volatility issues. The Energy Commission is currently exploring various options to improve the data collection on petroleum products. Sometime this year, it may become necessary for the Energy Commission to make revisions to some of its reporting forms and regulations under *PIIRA* to accommodate this need for petroleum industry information and data.

Data Related To Energy Efficiency

The Energy Commission may also need additional data on energy demand and energy efficiency to evaluate and analyze the State's need for energy efficiency improvements. Data will be necessary to compare and evaluate alternative proposals for Energy Commission funding of energy efficiency programs or to help whatever entity administer the Public Goods Charge program funding. The Energy Commission has not yet fully assessed these data needs. The Energy Commission may, at some point, need to report back to the Legislature on data needs to support energy efficiency programs.

End Notes

¹ In May 1997 the Energy Commission initiated an Order Instituting Rulemaking and delegated authority to the Ad Hoc Information Committee to preside over a rulemaking to consider changes to both its data collection and confidentiality regulations. The purpose of that rulemaking was to amend and delete existing regulations and adopt new regulations relating to disclosure of Commission records and data collection to bring them in step with industry restructuring. On November 18, 1999, the Energy Commission adopted a new approach for data collection in its Report on Generator and Consumer Data Reporting Requirements (P300-99-007).

² PRC Section 25320.

³ PRC Sections 25301-25304.

⁴ PRC Section 25216.

⁵ PRC Section 25216.5 (d), emphasis added.

⁶ PRC Sections 25216 and 25216.5.

⁷ PRC Section 25320 (d) contains references to generation, fuel use and fuel stocks that can be eliminated. Other references to sales to major end uses should be retained.

⁸ PRC Section 25320 should be revised to conform with new data collection reporting requirements established by the Energy Commission in its November 18, 1999 adoption of Report on Generator and Consumer Data Reporting Requirements.

⁹ PRC Section 25362 (a) and (b) provide monetary fine authority for petroleum data.

¹⁰ PRC Section 25364.