

Californians for Renewable Energy, Inc.(CARE)

821 Lakeknoll Dr.
Sunnyvale, CA 94089
(408) 325-4690

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:) Docket No. 99-AFC-3
)
Application for Certification for the) **Motion to Disqualify evidence in**
Metcalf Energy Center [Calpine) **the record, and expert testimony**
Corporation and Bechtel Enterprises, Inc.]) **from Cal-ISO during their pending**
) **investigation by the Cal. Attorney**
) **General and FERC, for “Gaming”**

In CARE’s 9-25-00 filing titled ***Response to Cal-ISO’s letter of 9-1-00 calling for expedited consideration of the MEC AFC***, two specific requests are made to the Commission;

1. The “the CEC to disregard the ISO’s letter during their pending investigation by the California Attorney General’s Office and the FERC”, and
2. “That the Commission find the wholesale markets in California are not currently workably competitive and take such actions as are necessary to ensure that wholesale prices for energy and ancillary services are just and reasonable.”

CARE has received no formal response to these requests from the Committee, nor has CARE’s original filing of 9-25-00 been placed online under intervenors documents at the CEC’s MEC web site. Because the Committee has now failed to respond to numerous requests, and lost a prior motion on Bifurcation of the MEC’s FDOC and PSD permit issuance by BAAQMD, CARE hereby incorporates this request into a formal motion. Apparently the CEC has once again denied us our constitutional rights to petition the government for grievances.

We hereby move that,

1. The “the CEC disqualify evidence in the record, and expert testimony from the Cal-ISO during their pending investigation by the California Attorney General’s Office and the FERC”, and
2. That “the Commission find the wholesale markets in California are not currently workably competitive and take such actions (including disqualify evidence in the record, and expert testimony from the Cal-ISO) until such time as wholesale prices for energy and ancillary services are just and reasonable”, as determined by the FERC.

Discussion and concerns

An example of the CEC's failure to respond to CARE filings is in regards to the Statement of Overriding Considerations (SOC) issue. In its 9-1-00 filing to the CEC and City of San Jose it states,

“Nowhere is this more evident than in regard to the making of a "statement of overriding considerations" (SOC). As will be made clear as soon as Calpine/Bechtel are finally required to submit vital information about impacts on biological resources--and as already made perfectly clear by CARE's expert, Dr. Smallwood, an SOC will be required in this case because, inter alia, there are unmitigable, potentially significant impacts on listed wildlife species.

An SOC is merely a policy decision. In essence, the agency must decide whether it is proper to sacrifice part of the physical environment in order to reap the benefits of a project. It is CARE's position that as a CEQA lead agency in regard to siting and certification of the powerplant (as clearly distinguished from a general plan amendment, rezoning and annexation), the CEC (as a state agency completely immune from local political control or pressure by the citizens directly impacted by an SOC determination) is not capable of making an adequate SOC, and since CEC staff itself identified feasible alternative sites that completely avoid impacts on sensitive wildlife species, the CEC has no choice but to refuse approval of the MEC project as presently designed on its present site. This is in accordance with section 21002 of CEQA.”

The 10-10-00 MEC FSA on page 1 the CEC staff sites “the significant local electrical system benefits and consumer benefits” as the overriding concern for the approval of this project, which requires an SOC determination by the Commission as, “an SOC will be required in this case because, inter alia, there are unmitigable, potentially significant impacts on listed wildlife species”.

“After careful consideration, Energy Commission staff concludes that the project (1) has the potential to result in significant adverse impacts with respect to land use and visual resources, and (2) will result in substantial electric system benefits. Energy Commission staff believe that the significant local electrical system benefits and consumer benefits, the use of reclaimed water for cooling and the dedication in perpetuity of 130 acres of habitat for the endangered bay checker spot butterfly outweigh the project's potential impacts.

Therefore, considering the limitations of the electric transmission system to provide electric resources to the greater San Jose area, the acute need for reliable electricity to meet the increasing demands of a growing area, the mandate of the State to ensure a safe and reliable supply of electricity to maintain the health, safety and welfare of the people of the state and the

state economy, and the timing and feasibility of the project relative to other alternatives; the staff recommends approval of the project.”¹

It is CARE's position that as a CEQA lead agency in regards to siting and certification of the powerplant the CEC is not capable of making an adequate SOC, and since CEC staff itself identified feasible alternative sites that completely avoid impacts on sensitive wildlife species, the CEC has no choice but to refuse approval of the MEC project as presently designed on its present site. This is in accordance with section 21002 of CEQA. The Commission has provided CARE no evidence that the Commission has the statutory authority to counter the requirements of section 21002 of CEQA.

CARE is concerned with the credibility and weight being given by the Commission to the Cal-ISO in regards, “significant local electrical system benefits and consumer benefits”, during the pending investigation by the California Attorney General’s Office and the Federal Energy Regulatory Commission (FERC) for “gaming”. CARE incorporates by reference and docket copies of the complaint filed on 8-29-00 by the California Electricity Oversight against the Cal-ISO and generators with the FERC (Docket#EL00-104), and the complaint filed on 10-6-00 by California Municipal Utilities Association against the Cal-ISO and generators with the FERC (Docket#EL01-1).

Staff in the MEC FSA describes consumer benefits and electrical transmission system effects.

“The staff of the Energy Commission and the Cal-ISO have completed an analysis of the local electric transmission system effects of the project. This analysis concludes that the project, as proposed, will provide substantial benefits to consumers, industry and the electric transmission system in the greater San Jose area. These benefits include a reduction of 39 megawatts and 81 gigawatt hours of transmission system losses, increased reliability, improved voltage support, and a reduction in the risk of rolling blackouts which the State of California and the greater San Jose area potentially face due to serious electricity shortages”.²

CARE would like to challenge the basis for the findings that the benefits include, “increased reliability, improved voltage support, and a reduction in the risk of rolling blackouts which the State of California and the greater San Jose area potentially face due to serious electricity shortages”. CARE contends that an ISO/generator trust contrived the June 14, 2000 rolling outage, to drive up the price of electricity, and justify expedited power plant construction in California. In this regard, CARE incorporates by reference and docket copies of the complaint filed on 10-10-00 against the Cal-ISO and generators with the FERC (Docket#EL01-2). An August 2, 2000 report from Michael Kahn, chairman of California’s Electricity Oversight Board (EOB) to the Governor of California in regards to the events and circumstances surrounding the June 14, 2000

¹ California Energy Commission, Metcalf Energy Center (99-AFC-3), Final Staff Assessment, October 10, 2000, p.1

² MEC FSA page 5

rolling outage in the San Francisco Bay Area, titled *California's Electricity Options and Challenges*, provides contradictory evidence to staff's findings.

“On June 14, PG&E was required to intentionally interrupt nearly 100,000 customers (residential and small business) for the first time in its history. This remarkable event was not related to insufficient supply in the ISO control area as a whole. Rather, it was related to grid instability in the Bay area. The transmission grid operates at a load level of 230,000 volts, with small deviations. If supply and demand get too far out of balance, a portion, then the entire system can crash, possibly spreading throughout the interconnected grid in the West.

The Bay area grid instability was related to high loads and short supplies in that area, which could not be relieved given the design of the transmission system. It was exacerbated by the fact that the evening before, instability was created by generator decisions to generate energy without notifying the ISO. Generators created these deviations in order to be paid a higher price within the ISO Control Area, and these deviations caused less than optimal voltage stability on its system.”¹

CARE contends that transmission system constraints coupled with Calpine taking two of its power plants down for scheduled maintenance on June 14, 2000 caused the rolling outage and this is the subject of CARE's FERC complaint EL01-2. CARE contends that the absence of a declaration of a Stage 3 emergency state wide on June 14, 2000 prevented the curtailment of exports during a system emergency, therefore power was export at a price of \$750/MWh or greater, while people were literally dying in the Bay area. “CARE contends that Cal-ISO and the generators are currently involved together in a ISO/generator trust to drive up the price of electricity, and justify expedited power plant construction in California to further maximize generator profits”³, and that these activities violate federal anti-trust and civil rights statutes. June 14, 2000 provides the evidence that the continued development of merchant power plants like the MEC provides California no guarantees that the electricity will even be sold for use in California. SB110 amended the Warren-Alquist Act to eliminate the requirement for the Commission's “assessment of need” precisely because of these conditions in California's deregulated market place.

CARE finds it highly disturbing that the Commission would lend such credibility and weight to the Cal-ISO while they and the applicant are subject to investigation for possible criminal wrong doings. CARE is also disturbed that our 9-25-00 filing titled *Response to Cal-ISO's letter of 9-1-00 calling for expedited consideration of the MEC AFC*, is disregarded or ignored, while the Cal-ISO's September 1, 2000 is incorporated into the FSA, by staff.

“In a September 1, 2000, letter to the Energy Commission, Terry M. Winter, President and Chief Executive Officer of the California ISO,

³ CARE's 10-10-00 Complaint to the Federal Energy Regulatory Commission (FERC Docket#EL01-2) may be viewed at the web site <http://www.calfree.com/FERCComplaint.htm> .

strongly encouraged the Commission to expedite the review of the Metcalf Energy Center as the “ISO believes that the MEC will provide substantial reliability benefits to the San Jose area sufficient to offset the impacts..”. Energy Commission staff agrees with the points made by Mr. Winter which are summarized below.

- There is an acute need for new power generation in the San Jose area and throughout California.
- The San Jose area is the most generation deficient in the state.
- The San Jose area is one of the areas most vulnerable to outages and reliability problems in the PG&E service territory.
- With the continued growth in demand, the ISO could be forced to implement rolling blackouts of customers, such as those experienced in the Greater San Francisco Bay Area and San Jose area on June 14, 2000.
- New electric generation at Metcalf will be a permanent means to defer these extreme measures.”⁴

The Cal-ISO statements,

- There is an acute need for new power generation in the San Jose area and throughout California, and
- The San Jose area is the most generation deficient in the state, and
- The San Jose area is one of the areas most vulnerable to outages and reliability problems in the PG&E service territory, and
- New electric generation at Metcalf will be a permanent means to defer these extreme measures,

is the evidence of their attempt to obscure alleged criminal violations of Federal anti-trust and civil rights statutes. The Commission should await a truly independent investigation by the California Attorney General and FERC, prior to passing judgment or concurring with such proclamations by the Cal-ISO. Incorporate by reference a recent article dated 10-13-00 in the San Diego North County Times titled *Study says state had power surplus* which states,

“PORTLAND, Ore. ---- A private investigation of state power markets has come to the conclusion that California had plenty of electricity generating capacity this summer.

The state enjoyed a 32 percent reserve margin even as wholesale prices soared and the state's power manager declared 36 separate "power emergencies" because California was thought to be in the grips of a critical shortage, according to the investigation.

The author of the investigation's preliminary report, Portland-based economist and utility industry consultant Robert McCullough, said at a conference of analysts, power traders and electricity industry regulators Thursday that he has found evidence that generators and trading companies manipulated the production of power from June through August to create a false shortage and push up prices.”ⁱⁱ

⁴ MEC FSA page 6

This proves that ongoing independent investigations will continue to uncover, “that generators and trading companies manipulated the production of power from June through August to create a false shortage and push up prices.” This is in fact the evidence the Cal-ISO and generators are attempting to obscure through their proclamations.

CARE is highly concerned with staff’s concurrence with the statement, “With the continued growth in demand, the ISO could be forced to implement rolling blackouts of customers, such as those experienced in the Greater San Francisco Bay Area and San Jose area on June 14, 2000.” Does this imply concurrence of staff and the Commission with possible criminal wrong doings by the Cal-ISO and Calpine associated with the events and circumstances surrounding the June 14, 2000 rolling blackouts in the San Francisco Bay area? Does CARE need to amend our FERC complaint (EL01-2) to include the Commission for its collusion with the Cal-ISO to expedite the construction of the MEC? CARE to show that this case is specifically exempted from expedited consideration by State law, sites and incorporates by reference AB970, the *California Energy Security and Reliability Act of 2000*ⁱⁱⁱ, which states.

SEC. 9. Nothing in this act shall, in any way, apply to a pending application for the certification of the Metcalf Energy Center, which was filed with the State Energy Resources Conservation and Development Commission by Calpine and Bechtel under Docket No. (99-AFC-3).⁵

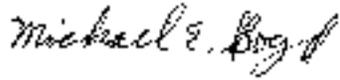
CARE has good reason to be concerned for the credibility and weight being given to the Cal-ISO. For example under *transmission system engineering* it states, “the Energy Commission will rely on the Cal-ISO’s determinations to make its finding related to applicable reliability standards and the need for additional transmission facilities. The Cal-ISO will also provide independent testimony for the Energy Commission’s hearings.”⁶ CARE contends that based on the evidence herein presented and the FERC complaints that the staff’s contention that the Cal-ISO can provide “independent testimony”, is without the basis of evidence in the record. Additionally, the Commission is relying on the wrong entity, to determine the “need for additional transmission facilities”. Unlike the Cal-ISO, the position of the California Public Utilities Commission, or the Transmission Agency of Northern California, would provide an independent unbiased opinion more reflective of the public and consumer interest in the determination of need for new transmission facilities. To the contrary, CARE contends that the evidence in the record demonstrates that the Cal-ISO, and possibly the Commission itself, are involved together in possible criminal violations of Federal anti-trust and civil rights statutes. CARE cautions the Commission to distance itself from the Cal-ISO and Calpine during their pending investigation on these matters.

⁵ CARE, other representatives, or members of the public lobbied to have this language amended to the legislation AB970, assuming (wrongly so) that the CEC would head the legislature’s concern for the environmental affects of the MEC project.

⁶ MEC FSA page 626

For the reasons and concerns herein provided, and in order to notify the Commission of CARE's FERC complaint (FERC Docket#EL01-2) in regards to the events and circumstances surrounding the June 14, 2000 rolling blackouts in the San Francisco bay area, CARE moves that,

1. The "the CEC disqualify evidence in the record, and expert testimony from the Cal-ISO during their pending investigation by the California Attorney General's Office and the FERC", and
2. That "the Commission find the wholesale markets in California are not currently workably competitive and take such actions (including disqualify evidence in the record, and expert testimony from the Cal-ISO) until such time as wholesale prices for energy and ancillary services are just and reasonable", as determined by the FERC.



Michael E. Boyd – President, CARE 10-20-00

ⁱ It should be noted that in order to maintain a reliable transmission system the WSCC developed Control Performance Standards that require each control area, such as the CAISO, to monitor its frequency every ten minutes. The average for each six 10-minute periods during the hour must be within specific limits as defined by the North American Electric Reliability Council (NERC). For June 13th the CAISO had 29 Control Performance Standards (CPS2) violations of which 17 were attributed to uninstructed deviations. The CPS2 violations are still under investigation and could result in the WSCC assessing monetary penalties to the CAISO.

ⁱⁱ Study says state had power surplus

DAN McSWAIN

Staff Writer

PORTLAND, Ore. ---- A private investigation of state power markets has come to the conclusion that California had plenty of electricity generating capacity this summer.

The state enjoyed a 32 percent reserve margin even as wholesale prices soared and the state's power manager declared 36 separate "power emergencies" because California was thought to be in the grips of a critical shortage, according to the investigation.

The author of the investigation's preliminary report, Portland-based economist and utility industry consultant Robert McCullough, said at a conference of analysts, power traders and electricity industry regulators Thursday that he has found evidence that generators and trading companies manipulated the production of power from June through August to create a false shortage and push up prices.

The Encina power plant in Carlsbad provides a stark example: it ran at well below its full capacity for much of June, even though wholesale power prices ---- and consumer electricity bills ---- shot to well above the generating plant's cost of production.

The actual production of electricity by the plants was determined by an analysis of data from the Environmental Protection Agency, which monitors emissions.

"We are seeing a lot of under-generation," McCullough said. "This is market power in action."

Market power is a term used by economists to describe the ability of market participants ---- in this case suppliers ---- to influence prices.

Many of the industry experts present at the conference Thursday reaffirmed their belief that supply shortages were very real this summer, and contributed to high prices, but several participants said deregulation has reduced the amount of market information that is available to analysts. Mainstream economists have questioned the accuracy of data from federal agencies, including the EPA.

No ready explanations

Conventional explanations for the low energy production observed in San Diego County are scant.

Encina's operators, a joint venture of energy giants Dynegy Inc. and NRG Energy Inc. called Cabrillo Power, confirmed that the power plant had no abnormal maintenance problems. The San Diego Regional Air Quality Board said Wednesday that the power plant was well within its state-mandated pollution limits.

But David Lloyd, the corporate secretary of Cabrillo, denied that the Encina plant has been used to game the San Diego County power markets.

"That can't possibly be right," Lloyd said of McCullough's analysis. "In North County, we were right on the ragged edge of being off (an emergency shutdown because of heavy output).

"Without knowing the specific details of time and which units were on or off, I can't comment," Lloyd said.

"We certainly don't want to be accused of anything wrongful," he said. "We don't have that much power in California, and for us to be shutting down in California to push up the price somewhere else doesn't make sense for us. We want to run all we can when the prices are high."

Electricity prices have soared to record levels since May, resulting in a doubling and tripling of power bills this summer for the 1.2 million customers of San Diego Gas & Electric Co. and causing an estimated \$5 billion in losses for Southern California Edison and Pacific Gas & Electric.

State lawmakers have intervened on behalf of San Diego County consumers with a retail rate cap, but the law in turn created a looming IOU that could grow beyond \$300 million if high wholesale prices persist.

5 probes under way

No fewer than five private, state and federal investigations are under way to assess the competitiveness of power markets in the interconnected Western states. The investigations also seek to answer charges that the companies which produce and trade electricity have either figured out how to exploit deregulated markets to outmaneuver regulators or have engaged in outright manipulation in order to increase profits.

Inquiries by the California Public Utilities Commission, Electricity Oversight Board and attorney general, along with a Federal Energy Regulatory Commission investigation, were launched in July and August. Staff investigators of the state and federal commissions said this week that they are still in the process of issuing subpoenas and gathering market data.

McCullough was hired in late May by the Seattle city utility and a consortium of large industrial power consumers in the Pacific Northwest to investigate the price spikes. His effort is thought to be the first to complete an exhaustive analysis of state and federal information that tracks the amount of electricity that was available and compares it to the amount of power that was actually used.

Chief among McCullough's findings was that demand for power was lower this summer than what was forecasted by the Western Systems Coordinating Council, a federal agency that is charged with ensuring the stability of the vast web of power transmission lines that connect California to 13 other Western states, British Columbia and northern Mexico.

McCullough provided a copy of his preliminary findings Tuesday to the North County Times, and the initial reaction of the state's energy community was one of deep skepticism.

"EPA data is notoriously unreliable," said Frank Wolak, a Stanford professor and the chairman of the market surveillance committee of the California Independent System Operator, the agency that manages the state grid and which has paid enormous sums for emergency power this summer. To gauge the actual output of power plants that burn fossil fuel, McCullough used emissions data from the EPA.

"Greed would get the best of anybody," Wolak said. "I found a lot of hours where in-state generators were exceeding nameplate capacity. These guys were cranking it out."

Wolak, in a study of power markets for the system operator, did conclude, however, that exercise of market power by power generators and traders was the major cause of higher prices this summer.

They saw a shortage

At the conference in Portland, most of the panelists did not openly criticize McCullough's analysis, but implicitly disputed his conclusions by attributing higher prices and the presumed exercise of market power to a very real shortage of electricity generating capacity among the Western states.

Low hydroelectric production in the Pacific Northwest and high temperatures in the Southwest were blamed for limiting California's ability to import electricity.

Others said state and federal regulators, along with market participants themselves, won't really know what happened until more experts look at hard market information that is in short supply.

Ron Eachus, the chairman of the Oregon Public Utilities Commission, said market information is routinely withheld from regulators, the public and buyers of electricity, but is shared among power generators and trading companies.

"If the market is sharing it with themselves, but not us, I don't buy that," Eachus said.

Tim Belden is the vice president of West Trading for Enron North America, the largest marketer and trader of electricity in the world. Enron takes the unique stand that more information which has been labeled "proprietary" by companies, such as when a plant is being run and how much the electricity is selling for, should be made available instantly to the markets.

"Is there a smoking gun out there or are market participants behaving rationally?" Belden said.

"California is characterized by secret, black box market models that nobody understands," he said. "If you've got nothing to hide, release the data."

Contact staff writer Dan McSwain at (760) 740-3514 or dmcswain@nctimes.com.

10/13/00

iii BILL NUMBER: AB 970 CHAPTERED
BILL TEXT

CHAPTER 329
FILED WITH SECRETARY OF STATE SEPTEMBER 7, 2000
APPROVED BY GOVERNOR SEPTEMBER 6, 2000
PASSED THE SENATE AUGUST 31, 2000
PASSED THE ASSEMBLY AUGUST 31, 2000
AMENDED IN SENATE AUGUST 31, 2000
AMENDED IN SENATE AUGUST 7, 2000
AMENDED IN SENATE JUNE 26, 2000
AMENDED IN SENATE JULY 6, 1999
AMENDED IN ASSEMBLY APRIL 27, 1999

INTRODUCED BY Assembly Members Ducheny, Battin, and Keeley
(Principal coauthor: Assembly Member Baugh)
(Coauthors: Assembly Members Aanestad, Ackerman, Baldwin, Bates,
Brewer, Campbell, Cardoza, Cox, Davis, Dickerson, Gallegos, Granlund, House, Kaloogian, Leach,
Machado, Maddox, Maldonado, Margett, Nakano, Olberg, Oller, Rod Pacheco, Pescetti, Runner,
Strickland, Thompson, and Zettel)
(Coauthors: Senators Alpert, Bowen, and Kelley)

FEBRUARY 25, 1999

An act to add and repeal Section 12078 of the Government Code, to add and repeal Section 42301.14 of the Health and Safety Code, to add Chapter 6.5 (commencing with Section 25550) to Division 15 of, and to repeal Sections 25550, 25552, and 25555 of, the Public Resources Code, and to amend Section 372 of, and to add Section 399.15 to, the Public Utilities Code, relating to energy resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 970, Ducheny. Electrical energy: thermal powerplants: permits.

Existing law provides for the restructuring of California's electric power industry so that the price for the generation of electricity is determined by a competitive market.

Under existing law, air pollution control districts, air quality management districts, and the State Energy Resources Conservation and Development Commission issue permits for the operation of powerplants.

This bill would authorize those districts to issue a temporary, expedited, consolidated permit for a thermal powerplant if specified conditions are met, and would require the commission to establish a process for the expedited review of applications to construct and operate powerplants and thermal powerplants and related facilities.

This bill would require the Public Utilities Commission to identify and undertake certain actions to reduce or remove constraints on the electrical transmission and distribution system, and adopt specified energy conservation initiatives and undertake efforts to revise, mitigate, or eliminate specified policies or actions of the Independent System Operator for which the Public Utilities Commission or Electricity Oversight Board make a specified finding.

The bill would appropriate \$57,500,000 from the General Fund for purposes of the bill. Of that amount, \$5,200,000 would be allocated to fund specified staff resources to implement specified programs at the commission, the agencies, boards, and departments within the California Environmental Protection Agency, and the Resources Agency;

\$2,300,000 would be allocated to the Public Utilities Commission to fund specified staff resources, and \$50,000,000 would be allocated to the commission to implement energy conservation and demand-side energy programs.

The bill would declare that it is to take effect immediately as an urgency statute.
Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the California Energy Security and Reliability Act of 2000.

SEC. 2. The Legislature finds and declares as follows:

(a) In recent years there has been significant growth in the demand for electricity in the state due to factors such as growth in population and economic activities that rely on electrical generation.

(b) In the past decade, efforts to construct and operate new, environmentally superior and efficient generation facilities and to promote cost-effective energy conservation and demand-side management have seriously lagged.

(c) As a result, California faces potentially serious electricity shortages over the next two years, which necessitates immediate action by the state.

(d) The purpose of this act is to provide a balanced response to the electricity problems facing the state that will result in significant new investments in new, environmentally superior electricity generation, while also making significant new investments in conservation and demand-side management programs in order to meet the energy needs of the state for the next several years.

(e) It is further the intent of this act to provide assistance to persons proposing to construct electrical generation facilities without in any manner compromising environmental protection.

SEC. 3. Section 12078 is added to the Government Code, to read:

12078. (a) There is hereby established the Governor's Clean Energy GREEN TEAM, which shall consist of a chairperson and not more than 15 members as follows:

(1) The Chair of the Electricity Oversight Board.

(2) The President of the California Public Utilities Commission.

(3) The Chair of the Energy Resources Conservation and Development Commission.

(4) The Secretary for Environmental Protection.

(5) The Secretary of the Resources Agency.

(6) The Secretary of the Trade and Commerce Agency.

(7) The director of the Governor's Office of Planning and Research.

(8) Representatives from the United States Environmental Protection Agency, the United States Fish and Wildlife Service, and other affected federal agencies appointed by the Governor.

(9) Representatives of local and regional agencies, including, but not limited to, air pollution control districts and air quality management districts appointed by the Governor.

(b) Within 90 days of the effective date of this section, the GREEN TEAM shall do all of the following:

(1) Compile and, upon request, make available to persons proposing to construct powerplants, all available guidance documents and other information on the environmental effects associated with powerplants proposed to be certified pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code, and including state-of-the-art and best available control technologies and air emissions offsets that could be used to mitigate those environmental effects.

(2) Upon request, provide assistance to persons proposing to construct powerplants in obtaining essential inputs, including, but not limited to, natural gas supply, emission offsets, and necessary water supply.

(3) Upon request, provide assistance to persons proposing to construct powerplants pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code in identifying the environmental effects of such powerplants and any actions the person may take to mitigate those effects.

(4) Upon request, provide assistance to persons proposing to construct powerplants in working with local governments in ensuring that local permits, land use authorizations, and other approvals made at the local level are undertaken in the most expeditious manner feasible without compromising public participation or environmental protection.

(5) Develop recommendations for low- or zero-interest financing programs for renewable energy, including distributed renewable energy for state and nonprofit corporations.

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 4. Section 42301.14 is added to the Health and Safety Code, to read:

42301.14. (a) To the extent permitted by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and notwithstanding Section 65950 of the Government Code, a district may issue a temporary, expedited, consolidated permit, as provided by Sections 42300.1 and 42301.3, for a powerplant within 60 days after the date of certification of an environmental impact report, within 30 days after the adoption of a negative declaration, or within 30 days after the date of a determination that the project is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, if all of the following conditions are met:

(1) The powerplant will emit less than 5 parts per million of oxides of nitrogen averaged over a three-hour period.

(2) The powerplant will operate exclusively under the terms of a contract entered into with the Independent System Operator and approved by the Electricity Oversight Board established pursuant to Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(3) The owner or operator of the powerplant shall demonstrate that the powerplant, on average, will displace electrical generation that produces greater air emissions in the same air basin or in a basin that causes air pollution transport into that basin.

(4) The powerplant will be interconnected to the grid in a manner that the Public Utilities Commission, in consultation with the Electricity Oversight Board, has determined will allow the powerplant to provide service to a geographical area of the state that is urgently in need of generation in order to provide reliable electric service. However, nothing in this paragraph affects the authority of the Energy Resources Conservation and Development Commission over powerplants pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

(5) The powerplant will be operated at a location that has the necessary fueling and electrical transmission and distribution infrastructure for its operation.

(6) The owner or operator of the powerplant enters into a binding and enforceable agreement with the district, and where applicable, with the Energy Resources Conservation and Development Commission, which demonstrates either of the following:

(A) That the powerplant will cease to operate and the permit will terminate within three years.

(B) That the powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle powerplant that uses best available control technology and offsets, as determined at the time the combined-cycle plant is constructed, and that complies with all other applicable laws and regulations.

(7) Where applicable, the owner or operator of the powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the district based upon the actual emissions from the powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5, to mitigate the emissions from the plant.

(8) It is the intent of the Legislature in this section to encourage the expedited siting of cleaner generating units to address peaking power needs. It is further the intent of the Legislature to require local air quality management districts and air pollution control districts to recognize the critical need for these facilities and the short life span of these facilities in exercising their discretionary authority to apply more restrictive air quality regulations than would otherwise be required by law.

(b) This section may be utilized for the purpose of expediting the siting of electrical generating facilities pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 5. Chapter 6.5 (commencing with Section 25550) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 6.5. EXPEDITED SITING OF ELECTRICAL GENERATION

25550. (a) Notwithstanding subdivision (a) of Section 25522, and Section 25540.6 the commission shall establish a process to issue its final certification for any thermal powerplant and related facilities within six months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and will comply with all applicable standards, ordinances, or laws.

For purposes of this section, filing has the same meaning as in Section 25522.

(b) Thermal powerplants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed thermal powerplant and related facilities.

(c) After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, or law. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, all local, regional, and state agencies that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) Thermal powerplants and related facilities that demonstrate superior environmental or efficiency performance shall receive priority in review.

(f) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) This section shall not apply to an application filed with the commission on or before August 1, 1999.

(i) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(j) This section shall remain in effect until January 1, 2004, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

25552. (a) The commission shall implement a procedure, consistent with Division 13 (commencing with Section 21000) and with the federal Clean Air Act (42 U.S.C.A. Sec. 7401 et seq.), for an expedited decision on simple cycle thermal powerplants and related facilities that can be put into service on or before August 1, 2001, including a procedure for considering amendments to a pending application if the amendments specify a change from a combined cycle thermal powerplant and related facilities to a simple cycle thermal powerplant and related facilities.

(b) The procedure shall include all of the following:

(1) A requirement that, within 15 days of receiving the application or amendment to a pending application, the commission shall determine whether the application is complete.

(2) A requirement that, within 25 days of determining that an application is complete, the commission shall determine whether the application qualifies for an expedited decision pursuant to this section. If an application qualifies for an expedited decision pursuant to this section, the commission shall provide the notice required by Section 21092.

(c) The commission shall issue its final decision on an application, including an amendment to a pending application, within four months from the date on which it deems the application or amendment complete, or at any later time mutually agreed upon by the commission and the applicant, provided that the thermal powerplant and related facilities remain likely to be in service before or during August 2001.

(d) The commission shall issue a decision granting a license to a simple cycle thermal powerplant and related facilities pursuant to this section if the commission finds all of the following:

(1) The thermal powerplant is not a major stationary source or a modification to a major stationary source, as defined by the federal Clean Air Act, and will be equipped with best available control technology, in consultation with the appropriate air pollution control district or air quality management district and the State Air Resources Board.

(2) The thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(3) With respect to a project for a thermal powerplant and related facilities reviewed under the process established by this section, the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the thermal powerplant.

(e) In order to qualify for the procedure established by this section, an application or an amendment to a pending application shall be complete by October 31, 2000, satisfy the requirements of Section 25523, and include a description of the proposed conditions of certification that will do all of the following:

(1) Assure that the thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(2) Assure protection of public health and safety.

(3) Result in compliance with all applicable federal, state, and local laws, ordinances, and standards.

(4) A reasonable demonstration that the thermal powerplant and related facilities, if licensed on the expedited schedule provided by this section, will be in service before August 1, 2001.

(5) A binding and enforceable agreement with the commission, that demonstrates either of the following:

(A) That the thermal powerplant will cease to operate and the permit will terminate within three years.

(B) That the thermal powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle thermal powerplant that uses best available control technology and obtains necessary offsets, as determined at the time the combined-cycle thermal powerplant is constructed, and that complies with all other applicable laws, ordinances, and standards.

(6) Where applicable, that the thermal powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the air pollution control district or air quality management district based upon the actual emissions from the thermal powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code, to mitigate the emissions from the plant. To the extent consistent with federal law and regulation, any offsets required pursuant to this paragraph shall be based upon a 1:1 ratio, unless, after consultation with the applicable air pollution control district or air quality management district, the commission finds that a different ratio should be required.

(7) Nothing in this section shall affect the ability of an applicant that receives approval to install simple cycle thermal powerplants and related facilities as an amendment to a pending application to proceed with the original application for a combined cycle thermal powerplant or related facilities.

(f) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date except that the binding commitments in paragraph (5) of subdivision (e) shall remain in effect after that date.

25553. Notwithstanding any other provision of law, on or before 120 days after the effective date of this section or on the earliest feasible date thereafter, the commission shall take both of the following actions:

(a) Update its assessment in trends in energy consumption pursuant to Section 25216 in order to provide the Governor, the Legislature, and the public with accurate information on the status of electricity supply, demand, and conservation in the state and to recommend measures that could be undertaken to ensure adequate supply and energy conservation in the state.

(b) Adopt and implement updated and cost-effective standards pursuant to Section 25402 to ensure the maximum feasible reductions in wasteful, uneconomic, inefficient, or unnecessary consumption of electricity.

25555. (a) In consultation with the Public Utilities Commission, the commission shall implement the peak electricity demand reduction grant programs listed in paragraphs (1), (2), and (3). The commission's implementation of these programs shall be consistent with guidelines established pursuant to subdivision (b). The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that factors other than those adopted by the commission were applied in making the award. Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645). The peak electricity demand programs the commission shall implement pursuant to this section shall include, but not be limited to, the following:

(1) For San Francisco Bay Area and San Diego region electricity customers, the peak electricity demand program shall include both of the following:

- (A) Incentives for price responsive heating, ventilation, air conditioning, and lighting systems.
- (B) Incentives for cool communities.

(2) For statewide electricity customers, the peak electricity demand program shall include all of the following:

- (A) Incentives for price responsive heating, ventilation, air conditioning, and lighting systems.
- (B) Incentives for cool communities.
- (C) Incentives for energy efficiency improvements for public universities and other state facilities.
- (D) Funding for state building peak reduction measures.
- (E) Incentives for light-emitting diode traffic signals.
- (F) Incentives for water and wastewater treatment pump and related equipment retrofits.

(3) Renewable energy development, except hydroelectric development, for both onsite distributed energy development and for commercial scale projects through which awards may be made by the commission to reduce the cost of financing those projects.

(b) In consultation with the Public Utilities Commission, the commission shall establish guidelines for the administration of this section. The guidelines shall enable the commission to allocate funds between the programs as it determines necessary to lower electricity system peak demand. The guidelines adopted pursuant to this subdivision are not regulations subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The commission may choose from among one or more business entities capable of supplying or providing goods or services that meet a specified need of the commission in carrying out the responsibilities for programs included in this section. The commission may select an entity on a sole source basis if the cost to the state will be reasonable and the commission determines that it is in the state's best interest.

(d) The commission shall contract with one or more business entities for evaluation of the effectiveness of the programs implemented pursuant to subdivision (a). The contracting provisions specified in subdivision (c) shall apply to these contracts.

(e) For purposes of this section, the following definitions shall apply:

(1) "Low-rise buildings" means one and two story buildings.

(2) "Price responsive heating, ventilation, air conditioning, and lighting systems" means a program that provides incentives for the installation of equipment that will automatically lower the electricity consumption of these systems when the price of electricity reaches specific thresholds.

(3) "Light-emitting diode traffic signals" means a program to provide incentives to encourage the replacement of incandescent traffic signal lamps with light-emitting diodes.

(4) "Cool communities" means a program to reduce "heat island" effects in urban areas and thereby conserve energy and reduce peak demand.

(5) "Water and wastewater treatment pump retrofit" means a program to provide incentives to encourage the retrofit and replacement of water and wastewater treatment pumps and equipment and installation of

energy control systems in order to reduce their electricity consumption during periods of peak electricity system demand. (f) The commission may expend no more than 3 percent of the amount appropriated to implement this section, for purposes of administering this section.

(g) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.

SEC. 6. Section 372 of the Public Utilities Code is amended to read:

372. (a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

(1) To load served onsite or under an over the fence arrangement by a non-mobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of such a facility to the extent that such increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, "affiliated" means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another specified entity. "Control" means either of the following:

(A) The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

(B) Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial or equitable interest.

(2) To load served by onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially operational on or before January 1, 1998, or by increases in the capacity of such a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties.

(3) To load served by existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided such emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

(4) After June 30, 2000, to any load served onsite or under an over the fence arrangement by any nonmobile self-cogeneration or cogeneration facility.

(b) Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

(1) Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

(2) Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

(A) Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

(B) Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

(C) Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred, provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

(3) Subject to the fire wall described in subdivision (e) of Section 367 provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed prior to December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

(c) The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

(1) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to load served onsite by a non-mobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

(2) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to any load served under over the fence arrangements entered into after December 20, 1995, between unaffiliated entities.

(d) For the purposes of this subdivision, all onsite or over the fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

(e) To facilitate the development of new micro-cogeneration applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

(f) To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

(1) The commission and the Electricity Oversight Board shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission and the Electricity Oversight Board find that any policy or action of the Independent System Operator unreasonably discourages, the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid, the commission and the Electricity Oversight Board shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

SEC. 7. Section 399.15 is added to the Public Utilities Code, to read:

399.15. Notwithstanding any other provision of law, within 180 days of the effective date of this section, the commission, in consultation with the Independent System Operator, shall take all of the following actions, and shall include the reasonable costs involved in taking those actions in the distribution revenue requirements of utilities regulated by the commission, as appropriate:

(a) (1) Identify and undertake those actions necessary to reduce or remove constraints on the state's existing electrical transmission and distribution system, including, but not limited to, reconductoring of transmission lines, the addition of capacitors to increase voltage, the reinforcement of existing transmission capacity, and the installation of new transformer banks. The commission shall, in consultation with the Independent System Operator, give first priority to those geographical regions where congestion reduces or impedes electrical transmission and supply.

(2) Consistent with the existing statutory authority of the commission, the commission shall afford electrical corporations a reasonable opportunity to fully recover costs it determines are reasonable and prudent to plan, finance, construct, operate, and maintain any facilities under its jurisdiction required by this section.

(b) In consultation with the State Energy Resources Conservation and Development Commission, adopt energy conservation demand-side management and other initiatives in order to reduce demand for electricity and reduce load during peak demand periods. Those initiatives shall include, but not be limited to, all of the following:

-
- (1) Expansion and acceleration of residential and commercial weatherization programs.
 - (2) Expansion and acceleration of programs to inspect and improve the operating efficiency of heating, ventilation, and air-conditioning equipment in new and existing buildings, to ensure that these systems achieve the maximum feasible cost-effective energy efficiency.
 - (3) Expansion and acceleration of programs to improve energy efficiency in new buildings, in order to achieve the maximum feasible reductions in uneconomic energy and peak electricity consumption.
 - (4) Incentives to equip commercial buildings with the capacity to automatically shut down or dim nonessential lighting and incrementally raise thermostats during peak electricity demand period.
 - (5) Evaluation of installing local infrastructure to link temperature setback thermostats to real-time price signals.
 - (6) Incentives for load control and distributed generation to be paid for enhancing reliability.
 - (7) Differential incentives for renewable or super clean distributed generation resources.
 - (8) Reevaluation of all efficiency cost-effectiveness tests in light of increases in wholesale electricity costs and of natural gas costs to explicitly include the system value of reduced load on reducing market clearing prices and volatility.
- (c) In consultation with the Energy Resources Conservation and Development Commission, adopt and implement a residential, commercial, and industrial peak reduction program that encourages electric customers to reduce electricity consumption during peak power periods.

SEC. 8. The sum of fifty seven million five hundred thousand dollars (\$57,500,000) is hereby appropriated from the General Fund to the State Controller for the following purposes:

(a) Five million two hundred thousand dollars (\$5,200,000) to fund temporary staff resources, including, but not limited to, limited term positions, not to exceed four years, at the Energy Resources Conservation and Development Commission, the agencies, boards, and departments within the California Environmental Protection Agency, and the Resources Agency, with jurisdiction over electrical powerplant siting and conservation and demand side management programs, for the exclusive purpose of implementing programs pursuant to this act.

(1) Prior to the expenditure of funds pursuant to this subdivision, the commission shall prepare and submit an expenditure plan to the Governor and the Legislature that specifies those agencies and positions for which those funds will be expended.

(2) It is the intent of the Legislature that these funds for staff resources be expended exclusively to implement programs that achieve the maximum feasible cost-effective energy conservation and efficiency while providing the necessary staff resources to expedite siting of electrical powerplants that meet the criteria established pursuant to the act adding this section.

(b) Two million three hundred thousand dollars (\$2,300,000) to the Public Utilities Commission, to fund temporary staff resources, including limited term positions not to exceed four years, and to implement the programs established pursuant to this act.

(c) Fifty million dollars (\$50,000,000) to the Energy Resources Conservation and Development Commission, to implement cost-effective energy conservation and demand-side management programs established pursuant to Section 25555 of the Public Resources Code, as enacted by this act. The commission shall prioritize conservation and demand-side management programs funded pursuant to this subdivision to ensure that those programs that achieve the most immediate and cost-effective energy savings are undertaken as a first priority.

SEC. 9. Nothing in this act shall, in any way, apply to a pending application for the certification of the Metcalf Energy Center, which was filed with the State Energy Resources Conservation and Development Commission by Calpine and Bechtel under Docket No. (99-AFC-3).

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the shortage of electric generation capacity to meet the needs of the people of this state and in order to limit further impacts of this shortage on the public health, safety, and welfare, it is necessary that this act take effect immediately.