

CALIFORNIA ENERGY COMMISSION

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To: All Parties in 09-AFC-9

From: Reneé Webster-Hawkins, Assistant Chief Counsel
Chief Counsel's Office

A handwritten signature in black ink, appearing to read "RW", with a long horizontal line extending to the right.

Date: August 26, 2011

Re: 09-AFC-9: Appendix to Order No. 11-0824-8

Per direction of the Commission in its Order No. 11-0824-8 dated August 24, 2011, the Chief Counsel's Office hereby provides the following list of specific questions relevant to applicant's motion regarding a jurisdictional waiver under Section 25502.3 of the Public Resources Code¹, which the parties to this matter shall address in their briefs to be filed and served no later than September 16, 2011 at 5:00 p.m.:

1. What is the legislative purpose of Section 25502.3?
2. What is the legislative purpose of Section 25501.7?
3. What does the term "facility" in Section 25502.3 refer to? Are there any electrical generating facilities of any size or technology that would not be included in this definition?
4. What facilities referred to in Section 25502.3 would not be eligible for an exemption under Section 25501.7?
5. If you conclude that sections 25501.7 and 25502.3 are both intended to apply only to the facilities identified in section 25501, why were two statutes adopted instead of a single statute?
6. Discuss the significance of the legislative history of relevant provisions and amendments to the Warren-Alquist Act, including but not necessarily limited to Sections 25120, 25501.7, 25502, 25502.3, 25540, and 25542, and whether the language and timing of those provisions and amendments supports the applicant's assertion that Section 25502.3 permits it to opt-in to the Energy Commission's exclusive certification jurisdiction by filing a notice of intention to file an application for certification of a solar photovoltaic electrical generating facility.

¹ All statutory references in this document are to the Public Resources Code.