

State of California

California Energy Commission Minutes of the January 25, 2023, Energy Commission Business Meeting

The meeting was called to order by Chair Hochschild. The Pledge of Allegiance was led by Chair Hochschild.

Present:

David Hochschild, Chair
Siva Gunda, Vice Chair

Patricia Monahan, Commissioner
Andrew McAllister, Commissioner

Please note that the California Energy Commission (CEC) aims to begin the business meeting promptly at the start time and the end time is an estimate based on the agenda. The meeting may end sooner or later than the time indicated depending on various factors.

Pursuant to the California Code of Regulations (CCR), title 20, section 1104(e), any person may make an oral comment on any agenda item. To ensure the orderly conduct of business, such comments will be limited to three minutes or less per person. Any person wishing to comment on information items or reports (non-voting items) shall speak during the public comment portion of the meeting and have three minutes or less to comment.

THE CEC WILL CONSIDER AND MAY TAKE ACTION ON THE FOLLOWING:

1. Agency Announcements.

The Chair may announce relevant matters to the public and the CEC, including agency updates, events, and other opportunities. Discussion may follow.

2. Consent Calendar.

Items will be taken up and voted on as a group. A commissioner may request that an item be moved and discussed later in the meeting.

- a. New Energy and Industrial Technology Development Organization (NEDO), Japan. Proposed resolution approving a Letter of Intent between the CEC and NEDO that establishes CEC support for a load flexibility project between Panasonic, the Sacramento Municipal Utility District, and the University of California, Davis. Contact: Fritz Foo
- b. Local Ordinances for the City of Piedmont and the City of Encinitas. Proposed resolutions approving applications from local jurisdictions for findings under Public Resources Code (PRC) section 25402.1(h)(2). Contact: Danuta Drozdowicz
 - i. City of Piedmont. The local ordinance requires that alterations and additions to existing single-family buildings with a project value of \$30,000 or more include one or more listed energy efficiency measures, subject to exceptions. Alterations or additions to single-family buildings with a project value of

\$115,000 or more are required to include two energy efficiency measures from the list, subject to exceptions.

- ii. City of Encinitas. The local ordinance requires efficiency measures applicable to certain building types, including requirements related to floor, window, and attic insulation, duct leakage, and requirements for a photovoltaic system on additions to certain existing nonresidential, hotel/motel, high-rise residential, and mixed-use buildings, subject to exceptions.
- c. The Regents of the University of California, on behalf of the Energy Institute at Haas School of Business. Proposed resolution approving Agreement 800-22-003 for an \$18,000 contract to co-sponsor the 2023 POWER Conference on Energy Research and Policy scheduled in Berkeley on March 24, 2023, and adopting staff's determination that this action is exempt from the California Environmental Quality Act (CEQA). The 2023 POWER Conference will focus on electricity markets and policy. (ERPA Funding) Contact: Lynn Marshall
- d. Aspen Environmental Group. Proposed resolution approving Amendment 1 to Contract 700-22-004 to add \$1,000,000. This contract provides professional engineering and environmental services to support the state's environmental, conservation, engineering, infrastructure, economic, and land use planning activities in terrestrial, coastal, and marine environments. These planning activities are intended to guide responsible energy and infrastructure development to help California meet its energy and greenhouse gas reduction goals. (ERPA Funding) Contact: Sharon Purewal
- e. Baldwin Park Unified School District. Proposed resolution approving Amendment 2 to Agreement ARV-19-017 to add \$108,816 to the budget, extend the term of the agreement by 28 months, add special terms and conditions, and adopting staff's determination that this action is exempt from CEQA. The additional funding will help purchase two previously awarded electric school buses and is needed because supply chain issues have increased manufacturing costs. (CTP Funding) Contact: Kay Williams
- f. Whittier Union High School District. Proposed resolution approving Amendment 2 to Agreement ARV-19-026 to add \$137,354 to the budget, extend the term of the agreement by 24 months, add special terms and conditions, and adopting staff's determination that this action is exempt from CEQA. The additional funding will help purchase previously awarded electric school buses and is needed because supply chain issues have increased manufacturing costs. (CTP Funding) Contact: Diana Friedrich
- g. Gladstein, Neandross and Associates. Proposed resolution to approve a \$4,950 purchase order to co-sponsor the Advanced Clean Transportation Expo 2023 scheduled for May 1-4, 2023, in Anaheim. (CTP Funding) Contact: ~~Christina Gordero~~ Spencer Kelley
- h. Order Instituting Rulemaking (OIR) Proceeding (22-EVI-04). Proposed OIR to develop and consider adopting additions to title 20 of the CCR that would establish uptime recordkeeping and reporting standards for certain electric

vehicle (EV) charging stations. The CEC may also develop and consider adopting requirements to increase EV charging station uptime through this proceeding, which is consistent with Assembly Bill (AB) 2061 (Ting, ch. 345, stats. 2022). Contact: Taylor Marvin

- i. Reliable, Equitable, and Accessible Charging for Multifamily Housing – GFO-21-603. This solicitation sought proposals to demonstrate replicable and scalable business and technology models for large-scale deployment of EV charging infrastructure capable of maximizing access and EV travel for multifamily housing residents. (General Fund Funding) Contact: Marc Arenas
 - i. Bay Area Air Quality Management District (BAAQMD). Proposed resolution approving Agreement ZVI-22-024 for a \$2,994,574 grant to design, build, and operate EV charging devices, and adopting staff's determination that this action is exempt from CEQA. The project will leverage BAAQMD and Marin Clean Energy incentives to minimize costs for property owners to install and operate Level 1, Level 2, and direct current fast charging (DCFC) with solar power that supports affordable multifamily residential buildings in disadvantaged and low-income communities.
- j. Clean Transportation Program Rural EV Charging – GFO-21-604. This solicitation sought proposals to demonstrate replicable and scalable business and technology models that can deploy EV charging stations to serve rural EV drivers, especially those from low-income or disadvantaged communities. (CTP and General Fund Funding) Contact: Tiffany Hoang
 - i. FreeWire Technologies, Inc. Proposed resolution approving Agreement ZVI-22-025 for a \$921,940 grant to install EV charging infrastructure to support rural communities, and adopting staff's determination that this action is exempt from CEQA. The proposed project will include the installation of five DCFCs and five Level 2 chargers across five sites within Monterey and Riverside counties.
 - ii. Ventura Energy LLC. Proposed resolution approving Agreement ZVI-22-026 for a \$775,144 grant to install four DCFC ports, six Level 2 charger ports, and two energy storage systems between two charging sites with the city of Santa Paula, and adopting staff's determination that this action is exempt from CEQA.
 - iii. ChargePoint, Inc. Proposed resolution approving Agreement ARV-22-006 for a \$1,487,747 grant to install a DCFC "hub" capable of charging four vehicles simultaneously at 150kW each, one dual-port Level 2 charger, and two "spoke" stations with two DCFCs (125kW) and eight dual-port Level 2 chargers, and adopting staff's determination that this action is exempt from CEQA. Stations will be constructed along critical rural travel corridors to enable long-distance EV trips and the installation of Level 2 stations at population centers to attract rural drivers.
 - iv. ChargePoint, Inc. Proposed resolution approving Agreement ARV-22-007 for a \$1,537,296 grant to install a DCFC "hub" capable of charging four vehicles

simultaneously at 150kW each, one dual-port Level 2 charger, and four “spoke” stations with 20 dual-port Level 2 chargers, and adopting staff’s determination that this action is exempt from CEQA. Stations will be constructed along critical rural travel corridors to enable long-distance EV trips and the installation of Level 2 stations at population centers to attract rural drivers.

- k. ~~Petition to Request a Rulemaking Hearing. Consideration and possible approval of an order granting a petition that requests the CEC initiate a rulemaking hearing under CCR, title 20, section 1221. The petition was filed by Western States Petroleum Association (WSPA) on January 6, 2023, and certified as complete by the executive director on January 13, 2023. WSPA is requesting a rulemaking for the California Oil Refinery Cost Disclosure Act, Senate Bill 1322 (Allen, ch. 374, stats. 2022). Contact: Ryan Eggers [This item has been moved to discussion and will be heard after agenda item 16]~~
- l. BioVind, LLC. Proposed resolution approving Agreement PIR-22-004 with BioVind, LLC for a \$999,970 grant to develop a test kit and field-testing guide for detecting microbial species associated with microbiologically influenced corrosion (MIC) in gas pipelines and storage facilities, and adopting staff’s determination that this action is exempt from CEQA. The innovative test kit will help lower the risk of MIC-related leakages and reduce costs associated with MIC detection, mitigation, and control. (Gas R&D Funding) Contact: Jeffrey Sunquist
- m. TechFlow, Inc. Proposed resolution approving Agreement ZVI-22-028 with TechFlow, Inc. for a \$413,928 grant to deploy five Level 2 and one DCFC EV charging systems, and adopting staff’s determination that this action is exempt from CEQA. This agreement will jointly fund EV charger infrastructure installations at Naval Base San Diego under federal contract HQ08452290065, amended by modification P0001. The U.S. Department of the Navy funded \$750,000 of the project cost. (General Fund Funding) Contact: Wendell Krell

Before the consent calendar items were voted on, Chair Hochschild announced Item 2k was moved to discussion and is now Item 17 on the agenda.

Public Comment:

Steve Uhler inquired about the January 25, 2023, business meeting agenda and other documents not being posted in the docket citing California Code of Regulations, title 20, section 1208. Mr. Uhler objected to proceeding with the business meeting.

Linda Barrera, Chief Counsel with the CEC thanked Mr. Uhler for his comments and stated as follows:

The business meeting agenda was filed on our business meeting page, which is required by the Bagley-Keene Open Meeting Act, and we complied with that. With regards to the proceedings that I believe you’re interested in which include rulemaking, air filters rulemaking, and the RPS Verification item the business meeting agenda was published in those dockets, which is not a requirement, but we did so specifically for the RPS Verification business meeting item. Second, section 1208 does not require that a document, including the proposed

resolution, be docketed before consideration by the CEC. Once approved, the resolution will be docketed similarly to other documents that are finalized after the adoption of the resolution such as business meeting transcripts, responses to public comments, and the Final Statement of Reasons. So, with that Chair, I recommend that the business meeting proceed because we have complied both with our regulations and with the Bagley-Keene Open Meeting Act.

Vice Chair Gunda moved to approve Items 2a through 2m. Commissioner McAllister seconded. The vote was (4-0).

3. Information Item - Blue Ribbon Commission on Lithium Extraction in California (Lithium Valley Commission): Overview of Report to the Legislature.

Staff will provide an overview of the Lithium Valley Commission's (LVC) report submitted to the Legislature on December 1, 2022. Assembly Bill 1657 (E. Garcia, ch. 271, stats. 2020) required the CEC to establish and convene the Lithium Valley Commission. The LVC, which has 14 members, was tasked with the review, investigation, and analysis of topics related to lithium recovery from geothermal brine in California. The LVC is required to submit a report to the Legislature documenting its findings and recommendations. The LVC held more than 23 public meetings over nearly two years, engaging with and learning from representatives of industry, academia, community-based organizations, environmental organizations, and public agencies, as well as members of communities and California Native American Tribes in and around Imperial and Riverside Counties. On November 17, 2022, the LVC finalized the report and adopted 15 recommendations. Contact: Silvia Palma-Rojas (Staff Presentation: 10 minutes)

Silvia Palma-Rojas presented an overview of the LVC report submitted to the Legislature on December 1, 2022. Assemblymembers, Eduardo Garcia, and Chair of the Blue Ribbon Commission on Lithium Extraction in California, Sylvia Paz, provided their remarks on this item.

4. Information Item on the 2022 Joint Agency Staff Report on AB 8 - Hydrogen Refueling Stations.

Staff overview of the "Joint Agency Staff Report on AB 8: 2022 Annual Assessment of Time and Cost Needed to Attain 100 Hydrogen Refueling Stations in California," published in December 2022. CEC and California Air Resources Board staff prepare this annual report in accordance with AB 8 (Perea, ch. 401, stats. 2013), summarizing progress in the deployment of publicly available hydrogen refueling stations in California. The CEC Clean Transportation Program administers grant funding for station development toward the 100-station goal as well as the 200-station goal of Executive Order No. B-48-18. Contact: Jane Berner (Staff Presentation: 10 minutes)

Jane Berner presented an overview of the "Joint Agency Staff Report on AB 8: 2022 Annual Assessment of Time and Cost Needed to Attain 100 Hydrogen Refueling Stations in California," published in December 2022.

5. Information Item on Zero-Emission Vehicle Infrastructure Plan (ZIP).

Staff overview of the ZIP, which describes near and long-term actions and strategies to ensure that zero-emission vehicle (ZEV) infrastructure deployment meets the needs of the growing ZEV market. ZIP is a statewide plan, developed with several state agencies and public stakeholder input, that will support decision-making by the public and private sectors. Contact: Thanh Lopez (Staff Presentation: 10 minutes)

Thanh Lopez presented an overview of the ZIP, which describes near and long-term actions and strategies to ensure that ZEV infrastructure deployment meets the needs of the growing ZEV market.

6. California Energy Demand 2022-2035 Forecast of Electricity Consumption.

Proposed resolution adopting the *California Energy Demand 2022-2035 Forecast of Electricity Consumption*, as well as Hourly and Peak Electricity Demand for California and for Certain Utility Planning Areas within California. The forecast includes estimates of achievable energy efficiency, fuel substitution, and transportation electrification to provide managed forecast scenarios. The adopted forecast will be used in planning processes, including the California Independent System Operator's transmission planning and the California Public Utilities Commission's (CPUC) integrated resource and distribution planning. Contact: Nick Fugate (Staff Presentation: 10 minutes)

Public Comment:

Theresa Cook from the California Hydrogen Coalition is in support of Information Item 4.

Steve Uhler expressed similar concerns as he did for Item 2 and also indicated the Chair suggested public comment on information items during public comment at the end of the business meeting. Mr. Uhler objected to this citing Government Code section 11125.7(a). Mr. Uhler proceeded with his comments regarding the demand forecast.

Before Item 6 was voted on, Nick Fugate, announced the docketed notice of availability for the forecast update should be 2023.

Vice Chair Gunda moved to approve Item 6. Commissioner McAllister seconded. The vote was (4-0).

7. Lafayette Backup Generating Facility (20-SPPE-02).

Consideration and possible approval of an order granting the December 12, 2022, motion filed by project applicant Digital Realty Inc. Digital seeks to dissolve the committee assigned to the Lafayette proceeding because it is not needed under small power plant exemption (SPPE) regulations that took effect December 14, 2022, and eliminated the adjudicatory process for SPPE proceedings. The CEC may consider vacating orders and rulings of the committee, such as the general orders, scheduling orders, and the ruling granting intervenor status to Robert Sarvey. Regardless of whether the motion is granted, the CEC will remain the lead agency for the project under the Warren-Alquist Act and CEQA, prepare the appropriate environmental document, and consider granting an SPPE for the project. Contact: Deborah Dyer (Staff Presentation: 5 minutes)

Public Comment:

Applicant Scott Galati is in support of this item.

Commissioner McAllister moved to approve Item 7. Vice Chair Gunda seconded. The vote was (4-0).

After Item 7 was voted on, Chair Hochschild announced a break for lunch and reconvene at 1:00 p.m.

Chair Hochschild reconvened the meeting at 1:00 p.m.

8. STACK Backup Generating Facility (21-SPPE-02).

Consideration and possible approval of an order granting the December 12, 2022, motion filed by project applicant STACK Infrastructure. STACK seeks to dissolve the committee assigned to the STACK proceeding because it is no longer needed under SPPE regulations that took effect on December 14, 2022, and eliminated the adjudicatory process for SPPE proceedings. The CEC may consider vacating orders and rulings of the committee, such as the general orders and scheduling orders. Regardless of whether the motion is granted, the CEC will remain the lead agency for the project under the Warren-Alquist Act and the CEQA, prepare the appropriate environmental document, and consider granting an SPPE for the project. Contact: Ralph Lee (Staff Presentation: 5 minutes)

Public Comment:

Applicant Scott Galati is in support of this item and is available for any questions.

Commissioner McAllister moved to approve Item 8. Commissioner Monahan seconded. The vote was (4-0).

9. Amendments to Appliance Efficiency Regulations for Air Filters (20-AAER-02).

Proposed resolution adopting amendments to parts of CCR, title 20, sections 1601 through 1607, relating to testing and marking air filters, and adopting staff's determination that this action is exempt from CEQA. These amendments would revise requirements applicable to manufacturers of air filters intended for residential ducted systems, updating the testing and marking requirements for such products to ensure consumers have sufficient and accurate performance information when making purchasing decisions. Contact: Alejandro Galdamez (Staff Presentation: 10 minutes)

Public Comment:

Steve Uhler expressed similar concerns as he did for Items 2 and 6.

Linda Barrera, Chief Counsel with the CEC thanked Mr. Uhler for his comments and stated as follows:

These documents are filed in the rulemaking document for the air filters which is 21-AAER-02. In that docket number, you will find the express terms, NOPA, ISOR, and all comments submitted. If you go to the docket, you will find all the documents related to this rulemaking that form part of the record. With regards to the proposed resolution that is posted on the commission's website for the

business meeting, you will find that in the backup materials the proposed resolution. We are not required by any law or the APA to have a proposed order in that specific docket. Once the commission votes on the proposed resolution, we will be posting that final resolution in the docket for this rulemaking and submit the entire package to OAL for approval.

Mat Matheny from Home Ventilating Institute requested CEC staff issue in their Final Statement of Reasons that the scope of the docket excludes residential ventilation systems and clarification in the docket with the understanding that the modifications to title 20 that were requested weren't possible. Mr. Matheny believes this would assist the industry by ensuring the scope of the regulations for air filters doesn't apply to the residential ventilation system.

Presenter Alejandro Galdamez responded to Mr. Matheny's request and said it will only affect the adopted systems as defined in the same section as title 20.

Kevin Hamilton from Central California Asthma Collaborative is in support of this item.

Commissioner McAllister moved to approve Item 9. Commissioner Monahan seconded. The vote was (4-0).

10. Qualifying Capacity of Supply-Side Demand Response Working Group Final Report (21-DR-01).

Proposed resolution adopting the *Qualifying Capacity of Supply-Side Demand Response Working Group Final Report*. This report provides final findings and recommendations to the CPUC, which the CPUC requested in 2021 in Decision (D.) 21-06-029 and in 2022 in D.22-06-050. Contact: Erik Lyon (Staff Presentation: 10 minutes)

Public Comment:

Steve Uhler requested the commissioners not underestimate the value of knowing power factor loads. Mr. Uhler stated that some people might have loads that have unity or high-power factors while others load wallets with much fewer kilowatts or megawatts. He asked to please pay attention to both the leading and lagging power factor.

Vice Chair Gunda moved to approve Item 10. Commissioner McAllister seconded. The vote was (4-0).

11. Renewables Portfolio Standard Retail Sellers Procurement Verification Results Report.

Proposed resolution adopting the *Renewables Portfolio Standard 2017–2020 Retail Sellers Procurement Verification Report*. This report applies to retail sellers, including investor-owned utilities, small and multijurisdictional utilities, electric service providers, and community choice aggregators reporting claims for Compliance Period 3 (2017-2020). The report provides verified results of claims submitted by retail sellers for Compliance Period 3. If adopted, the CEC will transmit the report to the CPUC to use in compliance determinations for retail sellers. Contact: Kevin Chou (Staff Presentation: 10 minutes)

Public Comment:

Steve Uhler expressed concern about adopting this item based on the methodology report that has not been approved and stated that there was misalignment between RPS guidelines and WECC rules. Mr. Uhler asked how certificates get into the WREGIS accounting system to be counted or if CEC considers WREGIS part of the CEC's accounting system. Mr. Uhler suggested that the CEC should have public meetings related to changes in the rules for the accounting system used to track renewable energy certificates. Mr. Uhler requested that the CEC allow utility customers to track renewable energy credits and environmental attributes associated with individual consumption. Mr. Uhler asked the CEC to table a vote on the item.

Commissioner McAllister moved to approve Item 11. Vice Chair Gunda seconded. The vote was (4-0).

12. California Electric Homes Program (CalEHP) - GFO-21-403.

This solicitation sought proposals for a third-party program administrator to design and implement an incentive program and provide technical assistance to potential and current program applicants. The third-party administrator selected to receive the grant funds will distribute incentives for all-electric buildings and energy storage systems in new residential market-rate construction in California. (General Fund Funding) Contact: Richard Gibbs (Staff Presentation: 5 minutes)

- i. TRC Engineers, Inc. Proposed resolution approving Agreement EHP-22-001 to help design and implement a residential all-electric and energy storage construction incentive program in California and provide technical assistance, and adopting staff's determination that this action is exempt from CEQA. Funding for this agreement is up to \$68,124,971, including up to \$58,125,000 to be distributed as incentives and up to \$9,999,971 for administrative costs.

Public Comment:

None.

Commissioner McAllister moved to approve Item 12. Vice Chair Gunda seconded. The vote was (4-0).

13. California Clean Energy Fund DBA CalCEF Ventures.

Proposed resolution approving two grant applications totaling \$900,000 from the Electric Program Investment Charge (EPIC) program's California Sustainable Energy Entrepreneur Development (CalSEED) Initiative 2022 Prototype Award Competition, and adopting staff's determination that this action is exempt from CEQA. These Prototype Awards were selected competitively via a business plan competition where CalSEED entrepreneurs that previously received a \$150,000 "Concept Award" were evaluated on the technical and commercial potential of their technology. The follow-on awards are for a maximum of \$450,000 each. (EPIC Funding) Contact: Justin Scaccianoce (Staff Presentation: 5 minutes)

- i. CalSEED Initiative (22-02). Planet A Energy, Inc., concentrating solar thermal collector with built-in storage, Brad Hines, \$450,000. This project advances innovative and long-duration storage technology that concentrates solar energy

and uses patented optical “light pipes” to transfer heat to a bed of black sand. By combining collection and storage into one system, this technology could reduce system complexity and the cost of long-duration storage and offer months of stored energy at a 30 percent higher efficiency than molten salt and a third of the cost of incumbent technologies.

- ii. CalSEED Initiative (22-02). Sonocharge LLC, acoustic wave induced electrolyte motion to overcome diffusion-limited charge performances and safety in lithium batteries, An Huang, \$450,000. This project will continue the development of a novel, mechanical wave-driven acoustic device that would significantly improve the charging performance, capacity, longevity, and safety of lithium metal batteries. The Li-ion concentration gradient and slow Li-ion diffusion in the electrolyte of a battery inhibits the development of a fast-charging battery. Generating acoustic streaming with a surface acoustic wave device reduces the thickness of the depletion layer and generates homogeneous mixing across the battery, preventing dendrites, adverse heating, and electrolyte breakdown.

Public Comment:

Danny Kennedy from New Energy Nexus is in support of this item.

Braden Hines from Planet A. Energy Inc. is in support of this item and expressed excitement about receiving the CalSEED Prototype award.

Steve Uhler is in support of this item.

Commissioner McAllister moved to approve Item 13. Vice Chair Gunda seconded. The vote was (4-0).

After Item 13 was voted on, Chair Hochschild announced a short 10-minute break and reconvene at 2:40 p.m.

Chair Hochschild reconvened the meeting at 2:40 p.m.

14. Department of Energy (DOE) Lawrence Berkeley National Laboratory (LBNL).

Proposed resolution approving Agreement 600-22-004 with DOE LBNL for a \$1,500,000 contract to develop six EV charger infrastructure blueprints at California military bases to accelerate the transition to EVs, and adopting staff’s determination that this action is exempt from CEQA. (General Fund Funding) Contact: Wendell Krell (Staff Presentation: 5 minutes)

Public Comment:

Steve Uhler is in support of this item.

Commissioner Monahan moved to approve Item 14. Commissioner McAllister seconded. The vote was (4-0).

15. Renewable Hydrogen Transportation Fuel Production - GFO-20-609.

This solicitation sought proposals to design, engineer, construct, install, test, operate, and maintain a hydrogen facility in California that will produce 100 percent renewable hydrogen from in-state renewable resources. When constructed and operational, the facility will be a source of 100 percent renewable hydrogen that will

be utilized for transportation fuel. Projects will produce hydrogen that will meet California regulations when dispensed at the station for use in on-road light- and medium/heavy-duty fuel cell EVs. (CTP Funding) Contact: Andrew Hom (Staff Presentation: 5 minutes)

- a. StratosFuel, Inc. Proposed resolution adopting CEQA findings for StratosFuel, Inc.'s Zero-Impact Production Facility Phase 2 Expansion project and approving grant Agreement ARV-22-004.
 - i. CEQA Findings. Based on the city of Victorville's Mitigated Negative Declaration (MND), Mitigation Monitoring Program, Initial Study, and Victorville Planning Commission Resolutions P-21-010, P-21-037, and P-21-038 approving the MND, site plan and Conditional Use Permit, the proposed project presents no new significant or substantially more severe environmental impacts beyond those already considered.
 - ii. Proposed resolution approving Agreement ARV-22-004 for a \$3,000,000 grant to expand StratosFuel's renewable hydrogen production facility to add 5,000 kg of fuel a day at the Southern California Logistical Airport facility utilizing electrolysis from renewable electricity.

Public Comment:

Jonathan Palacios-Avila from StratosFuel, Inc. is in support of this item.

Commissioner Monahan moved to approve Item 15. Commissioner McAllister seconded. The vote was (4-0).

16.Zero Emission Transportation Manufacturing – GFO-21-605.

This solicitation sought proposals for projects that will increase in-state manufacturing of ZEVs, ZEV components and batteries, and ZEV charging or refueling equipment. (General Fund Funding) Contact: Jonathan Bobadilla (Staff Presentation: 10 minutes)

- a. Zimeno Inc. DBA Monarch Tractor. Proposed resolution approving Agreement ZVI-22-019 for a \$13,060,660 grant to establish a flexible manufacturing line at Monarch's Livermore headquarters that can produce a range of equipment models for Zero Emission Monarch Tractor MK-V variants to supply off-road markets, and adopting staff's determination that this action is exempt from CEQA. This project will abate 13,100 metric tons (MTs) of CO₂e and 105 MTs of NO_x through product deployments per year at full capacity and will create more than 50 jobs.
- b. American Lithium Energy Corp. (ALE). Proposed resolution approving Agreement ZVI-22-020 with ALE for a \$10,220,285 grant, and adopting staff's determination that this action is exempt from CEQA. This project will expand battery manufacturing capacity at ALE's facility by setting up a fully automated battery cell assembly line capable of producing 1,500,000 high-performance EV battery cells per year.
- c. Wiggins Lift Co., Inc. Proposed resolution approving Agreement ZVI-22-023 for a \$8,114,664 grant, and adopting staff's determination that this action is exempt

from CEQA. This project will modernize and expand Wiggins' current facility to increase the manufacturing output of zero-emission forklifts and other product lines.

- d. ChargePoint, Inc. Proposed resolution approving Agreement ZVI-22-027 for a \$14,638,915 grant to build and scale manufacturing operations for Level 2 charging stations and DCFC equipment in Milpitas and Campbell, and adopting staff's determination that this action is exempt from CEQA. The project will create a new manufacturing line for Level 2 EV chargers that will achieve an annual production capacity of 10,000 chargers and expand the manufacturing capacity for DCFC to an annual production of 10,000 dispensers.

Public Comment:

Jake Winters from Monarch Tractors is in support of this item.

William Hadala from American Lithium Energy Corporation is in support of this item.

Michelle Wiggins from Wiggins Lift Company Inc. is in support of this item.

Tina Hu from ChargePoint Inc. is in support of this item.

Danny Kennedy from New Energy Nexus is in support of this item.

Commissioner Monahan moved to approve Item 16. Commissioner McAllister seconded. The vote was (4-0).

17. Petition to Request a Rulemaking Hearing.

Consideration and possible approval of an order granting a petition that requests the CEC initiate a rulemaking hearing under CCR, title 20, section 1221. The petition was filed by Western States Petroleum Association (WSPA) on January 6, 2023, and certified as complete by the executive director on January 13, 2023. WSPA is requesting a rulemaking for the California Oil Refinery Cost Disclosure Act, Senate Bill 1322 (Allen, ch. 374, stats. 2022). Contact: Ryan Eggers (Staff Presentation: 5 minutes)

Public Comment:

Sophie Ellinghouse from WSPA thanked staff for their assistance in preparing the petition and that one week after the WSPA petition was submitted the petition was certified as complete. Then she stated that staff asked WSPA to withdraw the petition, and WSPA declined. Ms. Ellinghouse restated the reasons for the petition as set forth in the petition. Then Ms. Ellinghouse requested the petition be moved to a formal rulemaking or if staff intends to delay the rulemaking responsibilities due to the pending legislation then it should also delay the obligations under SB 1322 to prevent the potential conflicts staff has identified. If not, Ms. Ellinghouse requested staff immediately provide interim guidance, including report forms to ensure timely compliance with the upcoming reporting deadline.

Steve Uhler is in support of the petition and requested the commissioners grant this petition.

Presenter Aleccia Gutierrez responded to Ms. Ellinghouse's question and said staff feels that the section is clear as written and the information that is required under SB 1322 can be complied with. The regulated community understands what is being requested and staff will work in good faith with the regulated community to make sure that the information that is being requested is done. Staff will need to implement the legislation as it is written and will wait to see the outcome of the pending legislation.

Vice Chair Gunda asked Ms. Gutierrez to respond to the comment about putting the item on the consent calendar and then moving this item for a vote.

Ms. Gutierrez responded to Vice Chair Gunda's question and said after deliberation and looking at the potential for overlap with the pending legislation staff decided the recommendation was to deny the petition.

Vice Chair Gunda asked Ms. Gutierrez once the legislature cycle is complete and there are no clarifications what we would do at that time.

Ms. Gutierrez responded to Vice Chair Gunda's question and said we would revisit the need for rulemaking and then work with the regulated community to make sure the process includes their input.

Vice Chair Gunda asked Ms. Gutierrez if every term is clear in terms of the way SB 1322 is written today.

Ms. Gutierrez responded to Vice Chair Gunda's question and said staff feels that the terms are clear and can be implemented as written. The concern is that any rulemaking could get crossways with the pending legislation if the terms are redefined.

Vice Chair Gunda asked legal counsel, Kari Anderson, what are the legal requirements for responding to a petition and what our process calls for.

Kari Anderson responded to Vice Chair Gunda and said title 20 section 1221(c) requires the commission to deny the petition in writing within 30 days or order a rulemaking be instituted. In the regulation, there is no timeline for instituting that rulemaking requirement or a writing requirement for approving a petition. This item was put on the consent calendar because of the 30-day requirement rule and the short time to evaluate before knowing where to place the item on the agenda and considering other factors that staff was concerned with.

Vice Chair Gunda asked Ms. Anderson if we have a response time of 30 days and can only deny or approve a petition from a stakeholder. What happens if we deny instead of repetitioning the process?

Ms. Anderson responded to Vice Chair Gunda's question and said the denial has to be in writing and filed with the Office of Administrative Law which would conclude the proceeding but anyone can file a petition at any time. Petitioner can file another one and it does not preclude staff from revisiting any issues that may have been raised in the future.

Commissioner McAllister indicated to Ms. Gutierrez that she sounds confident in working with the reporting communities to be clear about what to report.

Ms. Gutierrez responded to Commissioner McAllister's comment and said with the legislation in effect the data is due to us in the next month. We will be reporting that out in aggregate and will be implemented as written. We will be tracking the pending legislation. If there is a need once the pending legislation is resolved, then we will reconsider a petition to open a rulemaking.

Commissioner McAllister asked Ms. Gutierrez if a new petition would need to file.

Ms. Gutierrez responded to Commissioner McAllister's question and said yes that is my understanding

Ms. Anderson also responded to Commissioner McAllister's question and said they can refile, or staff can recommend a rulemaking be undertaken.

Commissioner McAllister asked if staff will be giving them forms or just working with them.

Ms. Gutierrez responded to Commissioner McAllister's question and said we are planning to issue a letter, but it does not have forms or instructions. That is something we will need to define.

Vice Chair Gunda moved to approve Item 17. Commissioner McAllister seconded. The vote was (4-0).

After Item 18 was voted on, Chair Hochschild announced that he will need to leave the business meeting to take a short meeting and that Vice Chair Gunda will run the business meeting until his return.

18. Minutes.

Possible approval of the December 14, 2022, Business Meeting minutes.

Public Comment:

Steven Uhler inquired about the December 14, 2022, Business Meeting minutes not being available for the public to review.

Linda Barrera, Chief Counsel with the CEC thanked Mr. Uhler for his comments and stated as follows:

The minutes of the December 14, 2022, Business Meeting were posted on the business meeting website. It is in the backup materials. We are not required to file minutes on the docket. We file the minutes on the docket after the commissioners approve the minutes. It's our custom and practice to always post the minutes of the previous business meeting on our website as a backup material.

Vice Chair Gunda requested Linda Barrera and or the Public Advisors Office to follow up with Mr. Uhler to find the location of the material that he is looking for.

Linda Barrera responded to Vice Chair Gunda and said will do.

Commissioner McAllister moved to approve Item 18. Commissioner Monahan seconded. The vote was (4-0).

After Item 18 was voted on, Vice Chair Gunda announced that we will skip the Lead Commissioner and Presiding Member Reports and go to Item 20.

19. Lead Commissioner or Presiding Member Reports.

The Commissioners reported on their recent activities.

20. Executive Director's Report.

The Executive Director had nothing to report.

21. Public Advisor's Report.

The Public Advisor had nothing to report.

22. Public Comment.

Claire Warshaw stated that she listened to lengthy meetings that the CEC had with gas and oil representatives to figure out why California gas prices were increasing and what was causing it to increase. Ms. Warshaw made comments about her previous union jobs.

Steve Uhler commented about the October business meeting and the commissioner's vote on a load management standard rulemaking. He stated that on December 6 the CEC sent the rulemaking file to OAL [Office of Administrative Law] for review. Mr. Uhler stated that he made a Public Record Act request to OAL for the Final Statement of Reasons and received it and the response to comments. He asserted that the CEC did not consider one of his comments. Mr. Uhler stated that the rulemaking file that the CEC has on the dockets is not what CEC gave to OAL. He also commented that documents such as minutes should be filed on the docket per Section 1208, and not as backup materials. Lastly, Mr. Uhler stated that the CEC should move public comment before the information agenda items to comply with the Bagley Keene Open Meeting Act, because the CEC is required to allow public comment before or during the agenda item discussion.

Mariela Loera from Leadership Council for Justice and Accountability commented on Item 3 and said they were active participants in the LVC process with the goal of ensuring the communities across the region were included in the development of the Commissioner's report to ensure that community concerns regarding lithium value were addressed. Ms. Loera noted, however, that they do not believe the report represents the concern or recommendations raised by the community members including those in the Eastern Coachella Valley. Ms. Loera requested the CEC and the legislature to lead a stronger process that involves community residents in the development of LVC and the subsequent industries in the region.

Nikola Lakic commented on Item 3 and said the current course of action is driving in the wrong direction because it consists of the two main projects. One is the extraction of lithium which is based on shrinking the lake and the second project is based on importing seawater. Mr. Lakic stated that these projects do not coexist and noted that he sent a letter asking to abolish the report of the panel of independent reviewers from the University of Santa Cruz.

Jeremy Smith from State Building and Construction Trades Council commented on Item 3 and said they are disappointed that the recommendation for high road jobs failed and remains on Table 2 recommendations considered, but not adopted. Mr. Smith stated that they want the local workforce and communities of Imperial to have a voice and the opportunity to have a pathway to a middle-class green energy career so they can take care of their families.

Christina Marquez from IBEW Local 569 commented on Item 3 and said not one of the key themes in the final report mentions economic benefits to the local workforce.

Seankeoni Ellis from the United Association Local 230 commented on Item 3 and said this region has been abandoned. Mr. Ellis commented that they want the opportunity to carry over these middle-class jobs into new green systems.

Mike Monagan from State Building and Construction Council commented on Item 3 and said he is in support of what his brothers and sisters have already stated.

Hector Mesa from IBEW Local 569 commented on Item 3 and said that as an electrician they end up driving two to three hours to San Diego to go to work. Mr. Mesa stated that a PLA will help them be closer to home.

23. Chief Counsel's Report.

- a. Pursuant to Government Code section 11126(e)(1), the CEC may adjourn to closed session with its legal counsel to discuss the following matter to which the CEC is a party:
 - i. *Interlink Products International, Inc. v. Xavier Becerra, Drew Bohan, Melissa Rae King (United States District Court for the Eastern District of California, Case No. 2:20-cv-02283).*

The Chief Counsel gave a report. Linda Barrera assured Mr. Uhler his comments are heard and informed him there are always ways to improve how the Energy Commission provides information to the public before the business meeting. Ms. Barrera also stated for the record the Energy Commission follows all relevant requirements in CCR Title 20 and the Bagley-Keene Open Meeting Act in addition to using the online docket system and web pages to maximize public engagement. Ms. Barrera ended by saying she welcomes additional suggestions from and is happy to discuss with Mr. Uhler on how to make the information more clearly available on the website.

After Item 23 was heard, Chair Hochschild announced that we will go to the Lead Commissioner and Presiding Member Reports.

There being no further business the meeting was adjourned.

Respectfully submitted,

LIZA LOPEZ
Secretariat