

State of California
California Energy Commission
Minutes of the August 12, 2020, 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
Janea A. Scott Vice Chair
Patricia Monahan, Commissioner

Karen Douglas, Commissioner
J. Andrew McAllister, Commissioner

The California Energy Commission's (CEC) August 12, 2020 Business Meeting will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. The public is able to participate and observe the meeting consistent with the direction in these Executive Orders. Instructions for remote participation can be found in the notice for this meeting and as set forth below in this agenda.

Pursuant to California Code of Regulations Title 20 Section 1104(e), any person may make oral comment on any agenda item. To ensure the orderly conduct of business, such comments will be limited to three minutes per person as to each item listed on the agenda that will be voted on today. Any person wishing to comment on information items or reports (non-voting items) shall reserve their comment for the general public comment portion of the meeting agenda and shall have three minutes total to address all remaining comments.

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

1. 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. EXECUTIVE DIRECTOR AUTHORITY TO APPROVE AMENDMENTS FOR IMPROVED PROCESSES. Proposed resolution that supersedes Resolution No. 18-0221-07 to add authority for the Executive Director or his or her designee to approve amendments that implement ongoing efforts to improve agreement processes, such as making invoicing easier and faster, budgets less complex, and reporting less burdensome. Contact: Allan Ward.
- b. ORDER INSTITUTING RULEMAKING PROCEEDING (Docket Number 20-AAER-03). Proposed Order Instituting Rulemaking to update the Appliance Efficiency Regulations, contained in the California Code of Regulations, Title 20, sections 1601-1609. This rulemaking will consider modifications to the

existing computer and computer monitor regulations found in Title 20 to incorporate new technologies that were not available at the time of the previously completed rulemaking. Contact: Soheila Pasha.

- c. **BAMCORE PRIME WALL EXCEPTIONAL METHOD COMPLIANCE OPTION.** Proposed resolution to incorporate BamCore Prime Wall, and dual panel hollow walls, into the residential California Building Energy Efficiency Code Compliance (CBECC-Res) performance compliance software, and for use in demonstrating compliance with the Building Energy Efficiency Standards, Title 24, Part 6, Section 150.1(b); Public Resources Code Section 25402.1(b); Title 24, Part 1, California Code Regulations, Section 10-109, 10-110. Contact: Michael Shewmaker.
- d. **OBERON FUELS, INC.** Proposed resolution approving Amendment 1 to Agreement ARV-18-018 with Oberon Fuels, Inc. to shift from developing diesel-to-dimethyl ether (DME) engine conversion kits for trucks to validating the feasibility of utilizing a DME propane blend as a drop-in fuel for light- and medium-duty vehicles. Project activities to increase DME production from the existing plant remain unchanged. (Clean Transportation Program funding). Contact: Micah Wofford.
- e. **PACIFIC NORTHWEST NATIONAL LABORATORY OPERATED BY BATTELLE MEMORIAL INSTITUTE FOR THE U.S. DEPARTMENT OF ENERGY.** Proposed resolution contingently approving Amendment #2 to contract 600-15-014 with Pacific Northwest National Laboratory (PNNL) Operated by Battelle Memorial Institute for the U.S. Department of Energy to: 1) extend the term of the contract from 03/31/2021 to 03/31/2023; 2) update the Scope of Work to expand Hydrogen Safety Panel tasks to include medium-duty/heavy-duty applications; 3) to augment the contract budget with \$200,000 from the Clean Transportation Program technical support funding; and 4) adopting staff's determination that the action is exempt from CEQA. The Clean Transportation Program relies on the technical expertise of PNNL's Hydrogen Safety Panel to inform safety requirements contained in funding solicitations for hydrogen refueling infrastructure. Because this is a sole source award, the CEC's approval is contingent on the Joint Legislative Budget Committee either approving or not disapproving it within 60 days from when it was notified. (Clean Transportation Program funding) Contact: Michelle Vater.

Commissioner Scott moved Item 1 and Commissioner Monahan seconded. The vote was unanimous (5-0).

2. Small Power Plant Exemption for the Walsh Backup Generating Facility (19-SPPE-02).

Consideration and possible approval of an order adopting the Committee Proposed Decision on the Application for a Small Power Plant Exemption (SPPE) for the Walsh Backup Generating Facility (19-SPPE-02). The Committee issued the Proposed Decision on July 28, 2020, and includes a Mitigated Negative Declaration prepared

pursuant to the California Environmental Quality Act. The project would include 32 3.0-megawatt (MW) and one 2.0-MW standby diesel generators to provide uninterruptible power supply to the Walsh Data Center when electrical power is not provided by the grid. Located at 651 Walsh Drive in the City of Santa Clara, California, the generators would be restricted to generating electricity to meet the Walsh Data Center electrical load of 80 MW and would not be connected to the grid. Contact: Susan Cochran. (Staff presentation: 15 minutes)

- a. Possible closed session deliberation on the above described SPPE. [Government Code Section 11126(c)(3)].

Commissioner Douglas moved Item 2 to adopt the proposed order previously filed with the deletion on Page 1 of the following text: "[and Errata, dated August XX, 2020]" and related footnote that makes findings required to grant a small power plant exemption and Commissioner Monahan seconded. The vote was unanimous (5-0).

3. Small Power Plant Exemption for the Mission College Backup Generating Facility (19-SPPE-05).

Consideration and possible approval of an order adopting the Committee Proposed Decision on the Application for a Small Power Plant Exemption (SPPE) for the Mission College Backup Generating Facility (19-SPPE-05). The Committee issued the Proposed Decision on July 31, 2020, and includes a Mitigated Negative Declaration prepared pursuant to the California Environmental Quality Act. The project would include 43 2.5-megawatt (MW) and two 600-kilowatt standby diesel generators to provide uninterruptible power supply to the Mission College Data Center when electrical power is not provided by the grid. Located at 2305 Mission College Boulevard in Santa Clara, California, the generators would be restricted to generating electricity to meet the Mission College Data Center electrical load of 78.1 MW and would not be connected to the grid. Contact: Ralph Lee. (Staff presentation: 15 minutes)

- a. Possible closed session deliberation on the above described SPPE. [Government Code Section 11126(c)(3)].

Commissioner Douglas moved Item 3 and a deletion from the first line of the first page of the adoption order [and errata dated August_2020] and the footnote that goes with it says TNPDD and Commissioner McAllister seconded. The vote was unanimous (5-0).

4. SOLAR ENERGY GENERATING SYSTEMS (SEGS) VIII (88-AFC-01C).

Proposed order approving the Decommissioning Plan for the Solar Energy Generating Systems (SEGS) VIII solar thermal power plant and authorizing the Executive Director to execute an agreement with San Bernardino County for the county to oversee SEGS VIII decommissioning activities on behalf of the CEC. Staff has concluded that potential environmental impacts from the activities in the Decommissioning Plan would be less than significant and the project would remain in compliance with all applicable laws, ordinances, rules, and standards with the continued implementation of existing conditions of certification in the Final Commission Decision for SEGS VIII and the adoption of new proposed conditions in

the areas of Air Quality, Biological Resources, Cultural Resources, Geology and Paleontological Resources, Hazardous Materials Management, Land Use, Public Health, Soil and Water Resources, Transportation, and Worker Safety and Fire Protection. Contact John Heiser. (Staff presentation: 5 minutes)

Commissioner Douglas moved Item 4 and Commissioner McAllister seconded. The vote was unanimous (5-0).

5. Order Instituting Rulemaking Proceeding (20-AAER-04).

Proposed Order Instituting Rulemaking to update the Appliance Efficiency Regulations, contained in the California Code of Regulations, Title 20, sections 1601-1609. This order will include updates to existing portable electric spa regulations by updating the test procedure reference and labeling requirements. The purpose of these amendments is to align with industry's latest test procedure update which includes changes that were adopted by the CEC in 2018. Contact: Jessica Lopez. (Staff Presentation: 10 minutes)

Commissioner McAllister moved Item 5 and Commissioner Scott seconded. The vote was unanimous (5-0).

6. Local Ordinance Applications (19-BSTD-06).

- a. City of Davis: New ordinance requiring that new nonresidential and high-rise residential buildings comply with Tier 1 energy efficiency performance requirements, a 10% compliance margin, and install a photovoltaic system sized to offset the lessor of 80% of the building's modeled energy load, or 15 DC watts per square foot of solar zone, defined as 15% of the total roof area. Contact: Danuta Drozdowicz. (Staff Presentation: 5 minutes)
- ~~b. County of San Mateo: New ordinance requiring that all new single family and duplex, low-rise multifamily, and nonresidential construction is all electric, or, if mixed fuel, meet more stringent energy efficiency performance requirements than the 2019 energy code. The ordinance also requires that natural gas appliance locations are prewired for future electric appliance installation and that photovoltaic systems are installed on nonresidential buildings. Contact: Danuta Drozdowicz. (Staff Presentation: 5 minutes)~~
- c. City of San Luis Obispo: New ordinance requiring that all new buildings are all electric or, if mixed fuel, meet more stringent energy efficiency requirements than the 2019 energy code. The ordinance also requires that natural gas appliance locations are prewired for future electric appliance installation and that photovoltaic systems are installed on nonresidential buildings. Contact: Danuta Drozdowicz. (Staff Presentation: 5 minutes)

Commissioner McAllister moved Item 6 and Commissioner Monahan seconded. The vote was unanimous (5-0).

~~**7. Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Publicly Owned Electric Utilities (16-RPS-**~~

03).

~~Proposed resolution to adopt a Negative Declaration under the California Environmental Quality Act (CEQA), and also to adopt modifications to the existing regulations establishing enforcement rules and procedures for the Renewables Portfolio Standard for local publicly owned electric utilities, in Title 20, California Code of Regulations (CCR), §§ 3201, 3202, 3204—3208, and 1240, and address provisions required by Senate Bill (SB) 350 (Stats. 2015, ch. 547), SB 1393 (Stats. 2016, ch. 677), SB 100 (Stats. 2018, ch. 312), and SB 1110 (Stats. 2018, ch. 605). Contact: Katharine Larson. (Staff presentation: 15 minutes)~~

- ~~a. NEGATIVE DECLARATION. Consideration for possible adoption of the Negative Declaration for Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities. This proposed adoption comes after a 30-day public comment period necessary to comply with CEQA guidelines.~~
- ~~b. ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES. Proposed consideration to adopt amendments to Title 20, CCR, §§ 3201, 3202, 3204—3208, and 1240 implementing, interpreting, and making specific several provisions of Public Utilities Code (PUC) sections 399.13, 399.15, 399.16, 399.18, 399.30, and 399.33. The rulemaking also updates other aspects of the program to facilitate implementation and improve clarity. The proposed action is taken under the authority of sections 25213 and 25218 (e) of the Public Resources Code and section 399.30 of the PUC. This proposed action comes after 45-day and subsequent 15-day public comment periods.~~

Item 7 was pulled. No action taken.

8. Lawrence Berkeley National Laboratory. Cost Share for Federal Funding Opportunities for Energy Research, Development, and Demonstration – GFO-18-902.

Proposed resolution approving agreement EPC-20-001 with Lawrence Berkeley National Laboratory for a \$3,000,000 grant toward a \$100,000,000 federal cost share from the Department of Energy to create a Hub to lead early-stage applied research to develop innovative new technologies that lower the cost of desalination and associated water treatment, focusing on enabling distributed desalination and localized water reuse, and adopting staff's determination that this action is exempt from CEQA. The research areas include materials and manufacturing, process innovation and intensification, modeling and simulation and integrated data and analysis. Contact: Christian Fredericks (Staff presentation: 5 minutes)

Commissioner Scott moved Item 8 and Commissioner seconded. The vote was unanimous (5-0).

9. Minutes.

Possible approval of the July 8, 2020 business meeting minutes.

Commissioner McAllister moved Item 9 and Commissioner Scott seconded. The vote was unanimous (5-0).

10. Lead Commissioner or Presiding Member Reports.

The Commissioner's reported on their recent activities.

11. Executive Director's Report.

The Executive Director gave a report.

12. Public Advisor's Report.

The Public Advisor gave a report.

13. Public Comment.

None.

14. Chief Counsel's Report.

- a. Pursuant to Government Code section 11126(e), the CEC may adjourn to closed session with its legal counsel to discuss any of the following matters to which the CEC is a party:
 - i. *In the Matter of U.S. Department of Energy (High Level Waste Repository), (Atomic Safety Licensing Board, CAB-04, 63-001-HLW); State of California v. United States Department of Energy (9th Cir. Docket No. 09-71014).*
 - ii. *Communities for a Better Environment and Center for Biological Diversity v. Energy Resources Conservation and Development Commission, and California State Controller (Alameda County Superior Court, Case No. RG13681262).*
 - iii. *State Energy Resources Conservation and Development Commission v. Electricore, Inc. and ZeroTruck (Sacramento County Superior Court, Case No. 34-2016-00204586).*
 - iv. *Natural Resources Defense Council, Inc., et al. v. United States Department of Energy (Federal District Court, Northern District of California, Case No. 17-cv-03404).*
 - v. *In re: PG&E Corporation and In re: Pacific Gas and Electric Company (United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 19-30088).*
 - vi. *State Energy Resources Conservation and Development Commission v. HyGen Industries, Inc. (Sacramento County Superior Court No. 34-2019-00252543).*
 - vii. *Olson-Ecologic Testing Laboratories, LLC v. CEC. (Orange County Superior Court. Case No. 30-2019-01115513).*
- b. Pursuant to Government Code §11126(e), the CEC may also discuss any judicial or administrative proceeding that was formally initiated after this agenda was published; or determine whether facts and circumstances exist that warrant the initiation of litigation, or that constitute a significant exposure to litigation against the Commission, which might include personnel matters.

The Chief Counsel announced that the Commissioner's will adjourn to Closed Session to address the reports for Items 2 and 3 deliberative process that was listed on the agenda as well as some litigation updates.

Appearances:

(All by telephone)

Amanda Johnson, LSA Associates

Bernadette Jendrusch, Terra-Gen, LLC

Grayson Wiggins, Pool And Hot Tub Alliance

Ben Werner, Clean Coalition (written statement)

Sara Greenwald, Self (written statement)

Nick Reavill, Self (written statement)

Brett Garrett, Santa Cruz Climate Action Network (written statement)

Leane Eberhart, Self (written statement)

Anne Simons, MD (written statement)

Laura Rosenberger Haider, Self (written statement)

Ashley McClure, MD, Self (written statement)

Monica Campagna, Self (written statement)

Stefan Gracik, Self (written statement)

Kim Stryker, Self (written statement)

Jill ZamEk, San Luis Obispo Mothers for Peace

Stephanie Ellis, Self (written statement)

Robert Whitehair, Self (written statement)

Antonina Markoff, Climate Reality Project

Bay Area Chapter (written statement)

Ellen Koivisto, Self (written statement)

Kevin Meissner, Self

Erika Reinhardt, Self

Sara Schear, Climate Health Now

Anne Harvey, Climate Health Now

Pierre Delforge, NRDC

Devin Makhni, Menlo Spark

Jimmy Le, Telegraph Hill Neighborhood Center

Tim Carmichael, Socalgas
Helena Birecki, Climate Reality Project
Erik Mebust, Sunrise Movement
Sasan Saadat, Earthjustice
Jonathan Kocher, IFPTE Local 21
Burt Culver, Self
Robert Nicely, Passive House California
Jared Johnson, Acterra
Candice Wold, Citizens' Climate Lobby
Lauren Cullum, Sierra Club California
Leah Louis-Prescott, Rocky Mountain Institute
Patrick Marks, Self
Jed Holtzman, 350 Bay Area
Brianna Mcguire, Self
Gershon Bialer, Self
Joseph Hughes, Air Resources Board

There being no further business, the meeting was adjourned.

Respectfully submitted,

Original Signed by:

CODY GOLDTHRITE
Secretariat