

State of California
California Energy Commission
Minutes of the November 16, 2020, Energy Commission Business Meeting

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

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) November 16, 2020 Business Meeting was 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 was able to participate and observe the meeting consistent with the direction in these Executive Orders. Instructions for remote participation were provided in the notice for this meeting and as set forth below in the agenda.

THE CEC CONSIDERED THE FOLLOWING AND TOOK ACTION AS NOTED:

1. 2019 CEC Diversity Commitment Update.

Staff presentation outlining the CEC's efforts to advance its Diversity Commitment objectives to increase participation of and benefits to disadvantaged communities and diverse business enterprises through its funding programs, programs, and policy. Contact: Noemí Gallardo. (Staff presentation: 15 minutes)

Staff presented informational Item 1. No vote taken.

2. Geysers Power Company, LLC Settlement Agreement.

Proposed order approving a settlement agreement with Geysers Power Company, LLC (GPC) to resolve alleged violations of fire protection systems maintenance requirements applicable to the Commission Decisions certifying six GPC Geothermal Facilities: Sonoma (80-AFC-1C), Quicksilver (79-AFC-5C), Lake View (79-AFC-1C), Socrates (79-AFC-3C), Calistoga (81-AFC-1C), and Grant (82-AFC-1C). Under the settlement agreement, GPC agrees to the amendment of certain language in the General Conditions and the addition of new Compliance and Fire Protection conditions of certification which will provide additional clarity on reporting requirements and allow for verification of required periodic maintenance. GPC has agreed to pay \$2.1 million to the CEC. In return, the CEC agrees to close the matter without further action or litigation. The approval of the settlement and incorporated conditions of certification, which primarily cover facility reporting requirements, is exempt from CEQA. Contact: Drew Bohan. (Staff presentation: 15 minutes)

Commissioner Douglas moved to approve Item 2 and Vice Chair Scott seconded. The vote was unanimous (5-0).

3. Small Power Plant Exemption for the Sequoia Backup Generating Facility (19-SPPE-03).

Reconsideration of the CEC's adoption of its motion to remand proceedings back to the Committee to consider additional relevant information on air quality and public health impacts. The CEC may (1) affirm the action on the motion to remand, including amendments to the remand or (2) vacate the decision to remand. If the CEC vacates the action on the motion to remand, the CEC may (1) adopt the Committee Proposed Decision, as presented at the September 14, 2020, Business Meeting; (2) adopt the Committee Proposed Decision, including any errata or other modifications that may be proposed; or (3) set a date for a continued hearing on the Committee Proposed Decision; or (4) not adopt the Committee Proposed Decision and deny the small power plant exemption. Contact: Darcie Houck. (No formal staff presentation; parties will be able to present arguments or make comment as to their position on the motion to remand consistent with the direction provided by the Chair.)

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

The Commissioners went into closed session before considering Item 3. Upon returning from closed session, the Chair postponed consideration of Item 3 until after consideration of Items 4 and 5. After the Commissioners voted on Items 4 and 5, the Chair left the Business Meeting and did not participate in the consideration of Item 3. Consideration of Item 3 was led by Vice Chair Scott. At the conclusion of statements by the parties, agency and public comment, and statements by the Commissioners, the Commissioners went into closed session. Upon returning from closed session, Commissioner Douglas made a motion on Item 3 to modify and affirm the order to remand as follows: That the Committee is directed to conduct limited additional proceedings to consider those comments raised by CARB and the Bay Area Air Quality Management District in this proceeding that address 1) input assumptions regarding NO2 emissions from routine testing and maintenance; and 2) direct and cumulative impacts of emergency operations of the project's backup generators. The Committee may address additional issues that arise during these proceedings. In addition, in order to facilitate a timely resolution of this matter, the Committee is directed to report on progress in this proceeding to the full Commission at its January Business Meeting. Commissioner Monahan seconded. The vote was 4-0.

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

Consideration of and possible action on the petition for reconsideration of the CEC's Final Decision of August 12, 2020. On September 10, 2020, Intervenor Robert Sarvey filed a petition for reconsideration of the CEC's Final Decision to grant a small power plant exemption for the Walsh Backup Generating Facility. If the CEC denies this petition, then the CEC's Final Decision stands. If the CEC grants this petition, the CEC must determine the procedure by which to resolve any matter being reconsidered, including but not limited to, referring the matter back to the Committee or reopening the evidentiary record. Contact: Darcie Houck. (No formal

staff presentation; parties will be able to present arguments or make comment as to their position on the petition for reconsideration consistent with the direction provided by the Chair.)

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

The Commissioners went into closed session before Item 3. Upon returning from closed session the Chair postponed consideration of Item 3 until after the Commissioners' consideration of Items 4 and 5. And the Chair postponed consideration of Item 4 until after consideration of Item 5, such that the Commission would consider all party statements, agency and public comment, and Commissioner comments on Item 5, then those of Item 4. After consideration of Items 4 and 5, the Commissioners went into closed session. Upon returning from closed session, the Commissioners voted on Item 5. Upon conclusion of the vote on Item 5. Commissioner Douglas made a motion on Item 4 to deny the Petition for Reconsideration of the Commission's Final Decision granting a Small Power Plant Exemption to the Walsh backup generating facility. The motion also directs the Hearing and Policy Unit of the Chief Counsel's Office to prepare an order memorializing their decision on the basis of the facts and findings outlined by the motion. Vice Chair Scott seconded. The vote was unanimous (5-0).

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

Consideration of and possible action on the petition for reconsideration of the CEC's Final Decision of August 12, 2020. On September 10, 2020, Intervenor Robert Sarvey filed a petition for reconsideration of the CEC's Final Decision to grant a small power plant exemption for the Mission College Backup Generating Facility. If the CEC denies this petition, then the CEC's Final Decision stands. If the CEC grants this petition, the CEC must determine the procedure by which to resolve any matter being reconsidered, including but not limited to, referring the matter back to the Committee or reopening the evidentiary record. Contact: Darcie Houck. (No formal staff presentation; parties will be able to present arguments or make comment as to their position on the petition for reconsideration consistent with the direction provided by the Chair.)

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

The Commissioners went into closed session before Item 3. Upon returning from closed session the Chair postponed consideration of Item 3 until after the Commissioners' consideration of Items 4 and 5. And the Chair postponed consideration of Item 4 until after consideration of Item 5, such that the Commission would consider all party statements, agency and public comment, and Commissioner comments on Item 5, then those of Item 4. After consideration of Items 4 and 5, the Commissioners went into closed session. Upon returning from closed session, Commissioner Douglas made a motion on Item 5 to deny the Petition for Reconsideration of the Commission's Final Decision granting a Small Power Plant Exemption to the Mission College backup generating facility. The motion also directs the Hearing and Policy Unit of the Chief Counsel's Office to prepare an order memorializing

their decision on the basis of the facts and findings outlined by the motion. Vice Chair Scott seconded. The vote was unanimous (5-0).

6. Lead Commissioner or Presiding Member Reports.

Commissioner Douglas reported on recent activities with the November 10, 2020 Tribal Nations Conference. Vice Chair Scott noted the upcoming CEC Anniversary Celebration on December 7, 2020 and Clean Energy Awards on December 10, 2020.

7. Executive Director's Report.

None.

8. Public Advisor's Report.

None.

9. Public Comment.

None.

10. 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).

- viii. *Interlink Products International, Inc. v. Xavier Becerra, Drew Bohan, Melissa Rae King* (United States District Court for the District of New Jersey, Case No. 2:20-cv-10566)
- ix. *Southern California Gas Company v. California State Energy Resources Conservation and Development Commission* (Orange County Superior Court, Case No. 30-2020-01152336-CU-WM-CXC).
- b. Pursuant to Government Code section 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 CEC, which might include personnel matters.

None.

Appearances:

(All by Zoom)

Rob Parker, Geysers Power Company

Robert Sarvey, Intervenor

Scott Galati, DayZen, LLC

Frank Biehl, Santa Clara and San Benito Counties Building and Construction Trades Council

Jakub Zielkiewicz, Bay Area Air Quality Management District, BAAQMD

Wesley Dyer, California Air Resources Board

Claire Warshaw, Self

Yasmine Agelidis, Earthjustice

Tim Carmichael, Southern California Gas Company

Mike Petouhoff, One Grid Energy Solutions

There being no further business, the meeting was adjourned.

Respectfully submitted,

Original Signed by:

CODY GOLDTHRITE
Secretariat