

State of California
California Energy Commission
Minutes of the December 9, 2020, Energy Commission Business Meeting

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

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) December 9, 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. 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. OTAY MESA ENERGY CENTER (99-AFC-05C). Proposed order approving the distribution of \$18,721 from the Quino Checkerspot Butterfly Endowment managed by the San Diego Foundation to RECON Environmental, Inc., for work related to the San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project. Condition of Certification BIO-11 in the Commission Decision for the Otay Mesa Energy Center requires that the CEC and United States Fish and Wildlife Service (USFWS) decide how to distribute the allocated funds for the study and management of the Quino checkerspot butterfly. The USFWS supports the current expenditure proposal and will consider formal approval once approved by the CEC. Contact: Ann Crisp.
- b. CUMMINS ELECTRIFIED POWER NA INC. Proposed resolution approving Amendment #4 to Agreement ARV-15-001 to: 1) change the Prime Recipient from Hydrogenics USA, Inc. to Cummins Electrified Power NA Inc; 2) extend the agreement from February 28, 2022 to June 30, 2022; 3) include an updated Special Terms and Conditions with a liquidated damages provision; and 4) adopt staff's determination that the action is exempt from the California Environmental Quality Act (CEQA). (Clean Transportation Program funding). Contact: Alex Wan.
- c. CUMMINS ELECTRIFIED POWER NA INC. Proposed resolution approving Amendment #4 to Agreement ARV-15-002 with Hydrogenics USA, Inc. to: 1)

change the Prime Recipient from Hydrogenics USA, Inc. to Cummins Electrified Power NA Inc.; 2) extend the term of the agreement from October 29, 2021 to December 31, 2021; 3) include an updated Special Terms and Conditions with a liquidated damages provision; 4) update the Scope of Work to replace the current demonstration partner from Praxair, Inc. to Linde, Inc.; 5) make reallocations to the budget listing Hydrogenics USA, Inc. as a subcontractor and adding Hydrogenics Corp. as a subcontractor with match funds only; and 6) adopt staff's determination that the action is exempt from CEQA. (Clean Transportation Program funding). Contact: Alex Wan.

- d. NATIONAL ASSOCIATION OF STATE ENERGY OFFICIALS. Proposed resolution approving Agreement 200-20-010 for a \$9,999 sponsorship contract to support the research and development of the 2021 U.S. Energy & Employment Report. (ERPA Funding) Contact: Brad Worster.
- e. NEW SOLAR HOMES PARTNERSHIP (NSHP) (16-NSHP-01). Proposed resolution to extend NSHP reservations to assist with delays caused by the COVID-19 pandemic. NSHP projects with reservation expiration dates between October 1, 2019 and December 31, 2020 will receive an extension of their expiration date to March 31, 2021. NSHP projects receiving this extension must still adhere to all requirements in the applicable NSHP Guidebook and must submit complete payment claims by the revised reservation expiration date. Due to statutory program participation deadlines, no additional extension of deadlines beyond March 31, 2021 will be allowed. Contact: Geoff Dodson.
- f. VELOZ. Proposed resolution approving Agreement 600-20-004 with Veloz for a \$50,000 contract which provides the CEC membership for six months. Membership allows the CEC to participate in member meetings, working groups, workshops, briefings, and other events; and provide input on electric vehicle awareness campaigns. Veloz membership provides a forum for the CEC to collaborate with stakeholders in the electric vehicle (EV) community. (Clean Transportation Program funding) Contact: Sharon Purewal.

Commissioner McAllister moved to approve Items 1a, b, c and e and Vice Chair Scott seconded. The vote was unanimous (5-0). Commissioner McAllister announced that he is a member of the NASEO Board of Directors and Executive Committee and will recuse himself from Item 1d. Vice Chair Scott moved to approve Item 1d and Commissioner Monahan seconded. The vote was 4-0. The Chair announced that he is a member of the Public Policy Advisory Board to Veloz, representing the Energy Commission, and will recuse himself from Item 1f. Commissioner Douglas moved approval of Item 1f and Commissioner McAllister seconded. The vote was 4-0.

2. Discussion of Energy Commission Progress on Joint Agency Report, Charting a Path to a 100 Percent Clean Electricity Future, Senate Bill 100 (2018).

Staff presentation on the clean energy goals established by Senate Bill 100, and a discussion of its requirement to issue a joint agency report due to the Legislature by January 1, 2021. Staff will also provide an update of the report development

process, including the planned scope and public engagement process. Contact: Terra Weeks. (Staff presentation: 5 minutes)

Staff presented informational Item 2. No vote taken.

3. Proposed Resolution Approving Lithium Valley Commission Members (20-LITHIUM-01).

Proposed resolution appointing members to serve on the Blue Ribbon Commission on Lithium Extraction in California (hereafter Lithium Valley Commission). Assembly Bill 1657 (Garcia, Chapter 271, 2020) (AB 1657) requires the CEC to establish and convene the Lithium Valley Commission to review, investigate, and analyze certain issues and potential incentives, as detailed in AB 1657, regarding lithium extraction and use in California. AB 1657 specifies that 9 of the 14 members shall be appointed to the Lithium Valley Commission by the CEC. Contact: Elisabeth de Jong. (Staff Presentation: 5 minutes)

Commissioner Douglas moved to approve Item 3 and Vice Chair Scott seconded. The vote was unanimous (5-0).

4. Appliance Efficiency Regulations for Computers and Computer Monitors (20-AAER-03).

Consideration and possible adoption of a resolution that would amend Appliance Efficiency Regulations (Title 20, sections 1602-1606) to incorporate new technologies and innovations for computers and computer monitors and would adopt staff's determination that this action is exempt from CEQA. This action comes after a 45-day public comment period and public hearing necessary to comply with the California Administrative Procedure Act (APA). Contact: Soheila Pasha. (Staff presentation: 10 minutes)

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

5. 2020 Repeal of Self-Contained Lighting Controls and Other Amendments (20-AAER-01).

Consideration and possible adoption of a resolution amending Appliance Efficiency Regulations (Title 20, sections 1601-1607) to repeal the self-contained lighting control requirements, provide updates to reflect current federal law, remove the outdated minimum lumen output requirement for portable luminaires, and modify data submittal requirements for certain appliances and would adopt staff's determination that this action is exempt from CEQA. This action comes after a 45-day public comment period and public hearing necessary to comply with the APA. Contact: Carlos Baez. (Staff presentation: 10 minutes)

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

6. California Air Resources Board.

Proposed resolution approving Agreement 600-20-001 with the California Air Resources Board for a \$8,000,000 contract to operate the Clean Mobility Voucher

Pilot Program and adopting staff's determination that this action is exempt from CEQA. The Clean Mobility Pilot Voucher Program will fund and provide technical assistance for shared mobility projects in under-represented communities. Eligible communities include disadvantaged, low-income and California Native Tribal Communities. CEC funds will be used for shared mobility projects and tools including outreach, education, and technical assistance. (Clean Transportation Program funding). Contact: Shaun Ransom. (Staff Presentation: 5 minutes)

Commissioner Monahan moved to approve Item 6 and Vice Chair Scott seconded. The vote was unanimous (5-0).

7. Hydrogen Refueling Infrastructure – GFO-19-602.

This solicitation sought proposals to fund publicly available hydrogen refueling station projects that will serve California's light-duty and commercial fuel cell EVs. Projects will provide critical fueling infrastructure to enable the continued rollout of this zero-emission vehicle technology. (Clean Transportation Program and VW Mitigation Trust funding). Contact: Jane Berner. (Staff presentation: 5 minutes)

- a. **FIRSTELEMENT FUEL, INC.** Proposed resolution approving Agreement ARV-20-002 with FirstElement Fuel, Inc., for a grant amount up to \$52,076,370 to develop hydrogen refueling stations in California and adopting staff's determination that this action is exempt from CEQA. The CEC is currently providing \$20,540,000 in grant funds to develop 21 hydrogen refueling stations, which includes \$5 million in supplemental VW Mitigation Trust funding in cooperation with the California Air Resources Board and the Bay Area Air Quality Management District. Additional funds may be added up to \$52,076,370 at future dates to develop more stations, subject to future appropriations and Clean Transportation Program Investment Plan funding allocations and CEC approval of subsequent batches of stations.
- b. **EQUILON ENTERPRISES, LLC.** Proposed resolution approving Agreement ARV-20-003 with Equilon Enterprises LLC (DBA Shell Oil Products US) for a grant up to \$40,575,712 to develop hydrogen refueling stations in California and adopting staff's determination that this action is exempt from CEQA. The CEC is currently providing \$7,318,398 in grant funds to develop eight hydrogen refueling stations, and additional funds may be added up to \$40,575,712 at future dates to develop more stations, subject to future appropriations and Clean Transportation Program Investment Plan funding allocations and CEC approval of subsequent batches of stations.
- c. **IWATANI CORPORATION OF AMERICA.** Proposed resolution approving Agreement ARV-20-004 with Iwatani Corporation of America for a grant up to \$23,073,184 to develop hydrogen refueling stations in California and adopting staff's determination that this action is exempt from CEQA. The CEC is currently providing \$1,919,597 in grant funds to develop one hydrogen refueling station, and additional funds may be added up to \$23,073,184 at future dates to develop more stations, subject to future appropriations and Clean

Transportation Program Investment Plan funding allocations and CEC approval of subsequent batches of stations.

Commissioner Monahan moved to approve Item 7 and Vice Chair Scott seconded. The vote was unanimous (5-0).

8. Local Ordinance Application (19-BSTD-06).

Possible approval of resolutions for four separate applications submitted by local jurisdictions for energy ordinances that exceed the energy efficiency requirements of the 2019 Energy Code (Title 24, Part 6). Contact: Danuta Drozdowicz. (Staff presentation: 5 minutes)

- a. CITY OF SAN MATEO: New ordinance requiring newly constructed residential and office use buildings to be all-electric with an exception allowed for new multifamily buildings with 100 percent affordable units. If mixed fuel, multifamily affordable buildings must meet higher efficiency standards than the 2019 Energy Code.
- b. TOWN OF LOS ALTOS HILLS: New ordinance requiring that newly constructed low-rise residential buildings install heat pump space heating and water heating systems. Prewiring for electric appliances is required if gas appliances are installed for cooking and clothes drying.
- c. CITY OF REDWOOD CITY: New ordinance requiring that newly constructed buildings shall be all-electric with exceptions allowed for hospitals, laboratories, commercial kitchen equipment, affordable housing where 100 percent of the units are affordable, and accessory dwelling units. Photovoltaic (PV) systems are required on newly constructed buildings not subject to the requirements of the 2019 Energy Code.
- d. CITY OF EAST PALO ALTO: New ordinance requiring that newly constructed buildings shall be all-electric with exceptions allowed for laboratories, emergency operation centers, commercial kitchens, affordable housing projects, and accessory dwelling units. Prewiring for electric appliances is required where gas appliances are installed, and PV systems are required on newly constructed buildings not subject to the requirements of the 2019 Energy Code.

Commissioner McAllister moved to approve Item 8 and Vice Chair Scott seconded. The vote was unanimous (5-0).

9. Minutes.

Possible approval of the November 10, 2020 and November 16, 2020 business meeting minutes.

Commissioner Vice Chair Scott moved to approve Item 9 and Commissioner Douglas 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 Case 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.

The Chief Counsel gave a report. The Chair announced the Commission will go into closed session. Upon returning from closed session the Chair announced they have nothing to report and the meeting is adjourned.

Appearances:

(All by telephone)

Jonathan Weisgall, Berkshire Hathaway Energy

Ava Yaghoobirad, California Air Resources Board

Tim Brown, FirstElement Fuel, Inc.

Wayne Leighty, Shell Hydrogen

Joe Cappello, Iwatani Corporation of America

Emily Spack, Information Technology Industry Council (ITIC)

Julia Randolph, Coalition for Clean Air

Elizabeth Szulc, CALSTART

Gia Vacin, Governor's Office of Business and Economic Development

Minda Berbeco, Bay Area Air Quality Management District

Bill Elrick, California Fuel Cell Partnership

James Dumont, Building Momentum, Inc.

Steve Sanders, Climate Reality Project

Charles Cormany, Efficiency First California

Bruce Nagle

Jonny Kocher, Rocky Mountain Institute

Alice Sung, Greenbank Associates

Sarah Sachs, Ceres

Tom Abram, Engineer, San Diego

Suyama Bodhinayake, Architect

Tom Kabat, Energy Engineer

Sarah Spengeman, Interfaith Power & Light

David Moller, Marin-Sonoma Building Electrification Squad

Diane Bailey, Campaign for Fossil Free Buildings

Elena Engel, 350 Bay Area Volunteer

Brianna McGuire, Sunrise Movement

Tanya Barham, Community Energy Labs

Colleen Fitzsimons, San Diego Green Building Council

Robert Carr

Simone Barth, Omgivning

Sven Thesen, Project Green Home

Wes Reutimann, Active SGV

Erin Feeney, David Baker Architects

Sean Armstrong, Redwood Energy

Stephanie Morris, Mothers Out Front

Jared Johnson, Arkela (phonetic)

Matthew Gough, Sierra Club

Brian Barnacle, City Councilmember elect, Petaluma

Eric Arens

Kevin Ma, Silicon Valley Youth Climate Action

Bronwyn Barry, North American Passive House Network

There being no further business, the meeting was adjourned.

Respectfully submitted,

Original Signed by:

CODY GOLDTHRITE
Secretariat