

DOCKETED

Docket Number:	16-OIR-03
Project Title:	Energy Data Collection
TN #:	222675
Document Title:	Resolution Adopting Proposed Regulatory Changes
Description:	Resolution No: 18-0221-6
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	2/22/2018 12:48:58 PM
Docketed Date:	2/22/2018

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

REGULATIONS GOVERNING DATA
COLLECTION AND THE DESIGNATION
OF CONFIDENTIAL INFORMATION

Docket No. 16-OIR-03

RESOLUTION ADOPTING
PROPOSED REGULATORY
CHANGES

WHEREAS, on August 4, 2017, the Energy Commission posted on the webpage for this proceeding, and filed in the docket of this proceeding the following:

1. the Notice of Proposed Action (NOPA) for the proposed regulations;
2. the Express Terms of the proposed regulations; and
3. the Initial Statement of Reasons (ISOR);

WHEREAS, on August 4, 2017, the Office of Administrative Law (OAL) published the NOPA for the proposed regulations in the California Regulatory Notice Register;

WHEREAS, the on August 4, 2017, Energy Commission mailed the NOPA to:

1. the Energy Commission's rulemaking and energydata electric mail list serve;
2. the sole small business enterprises that could be affected by the regulations;
3. every person who had requested notice of such matters; and
4. the Secretary of the California Natural Resources Agency; and

WHEREAS, the NOPA provided for a public comment period of 45 days, from August 5 through and including September 20, 2017;

WHEREAS, on January 26, 2018, the Energy Commission posted on the webpage for this proceeding, and filed in the docket of this proceeding public revised

Express Terms (15-day language) of the proposed regulations and an Addendum to the ISOR;

WHEREAS, on January 29, 2018, the Energy Commission notified the persons described in Government Code, section 11347.1(b) and California Code of Regulations, title 1, section 44 that the revised Express Terms (15-day language) and Addendum to the ISOR were available for public comment through and including February 13, 2018;

WHEREAS, the revised Express Terms (15-day language) of the proposed regulations were sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

THEREFORE BE IT RESOLVED, that the Energy Commission finds, based on the entire record for this proceeding, as follows:

A. The Warren-Alquist Act. The adopted regulations:

- (1) provide for the delivery of data to the Energy Commission that is necessary for developing the policy reports and analyses required by Public Resources Code sections 35301 – 25310 inclusive;
- (2) take into account the schedule of the integrated energy policy report, eliminate unneeded and duplicative data submittals from stakeholders, and are based on full consideration of the potential burden the data requirements impose on stakeholders;
- (3) require only the submission of information that the reporting entity can be expected to acquire through its market activities;
- (4) are based on an assessment of the practicability of using proxies and surveys, weighing the burden of compliance against the benefit of participant provided data for the public interest;

B. The Administrative Procedure Act. The adopted regulations:

- (1) are not inconsistent or incompatible with existing state regulations;
- (2) are not inconsistent or incompatible with existing federal law;
- (3) impose a mandate on local governments or school districts (publicly-owned utilities (POUs)), but this mandate will not require reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code

both because the mandates are not unique to POUs, affecting private sector and public sector large utilities equally, and because POUs have the ability to levy service charges to pay for any mandates, providing a revenue source for the POUs to recoup its costs of compliance;

- (4) will result in costs to a state agency (the Energy Commission), as described in the NOPA and ISOR (including the addendum thereto);
- (5) will result in savings to a state agency (the Energy Commission);
- (6) will not result in nondiscretionary costs to local agencies or school districts, as describe in the as described in the NOPA and ISOR (including the addendum thereto);
- (7) will not result in nondiscretionary savings to local agencies or school districts;
- (8) will not result in costs or savings in federal funding to the State of California;
- (9) will not have significant effect on housing costs;
- (10) will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with other businesses in other states;
- (11) will have cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the regulations, as described in the as described in the NOPA and ISOR (including the addendum thereto);
- (12) will not have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars;
- (13) will not have an impact on the creation of jobs within the state, as describe in the NOPA and ISOR (including the addendum thereto);
- (14) will not have an impact on the elimination of jobs within the state;
- (15) will not have an impact on the creation or elimination of businesses within the state;
- (16) will not have an impact on the expansion of businesses currently doing business within the state, as describe in the NOPA and ISOR (including the addendum thereto);

- (17) may result in benefits to the health and welfare of California residents, worker safety, and the state's environment, as described in the NOPA and ISOR (including the addendum thereto);
- (18) will require a report from businesses, as described in the NOPA and ISOR (including the addendum thereto), which is necessary for the health and welfare of the people of the state, as the regulations should lead to improved understanding of the electricity and natural gas system operations, leading to better-targeted programs necessary to achieve state energy and environmental policies;
- (19) have no alternatives that would be more effective in carrying out the purposes of the Warren-Alquist Act, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes; and
- (20) will provide increased clarity to the regulated community.

C. The California Environmental Quality Act (CEQA). The adopted regulations:

- (1) are not a "project" subject to CEQA pursuant to CEQA Guidelines, section 15378 (b)(2) and (5), in that they deal with general policy and procedural activities or organizational and administrative activities and do not involve commitment to any specific project that may result in a potentially significant physical impact on the environment;
- (2) are exempt from CEQA because they fall within the so-called "common sense" exemption pursuant to CEQA Guidelines, section 15061(b)(3), which indicates that CEQA only applies to projects that have a "significant effect on the environment" as defined in Public Resources Code section 21068 and in CEQA Guidelines, section 15382, as being a substantial, or potentially substantial, adverse change in the environment;

BE IT FURTHER RESOLVED, based on the entire record of this proceeding, the California Energy Commission hereby adopts the herein described amendments. We take this action under the authority of Public Resources Code sections 25213, 25218(e) and 25310, and to implement, interpret, and make specific Public Resources Code sections 25005.5, 25100-25141, 25216, 25216.5, 25223, 25300, 25301, 25302, 25303; 25303.5, 25305, 25302.1, 25302.2, 25310, 25322, 25324, 25330 et seq., 25364, 25366, 25400, 25401, 25401.2, 25403, 25403.5, 25602, and 25604 of the Public Resources Code, and sections 9615 and 9620 of the Public Utilities Code;

BE IT FURTHER RESOLVED, the Energy Commission directs the Executive Director, or an authorized designee, to take, on behalf of the Energy Commission, all actions reasonably necessary to have the adopted regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations and preparing and filing all appropriate documents, such as the Final Statement of Reasons with the Office of Administrative Law, and making any changes to the rulemaking file required by OAL.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the California Energy Commission held on February 21, 2017.

AYE: Weisenmiller, Douglas, McAllister, Hochschild, Scott

NAY: None

ABSENT: None

ABSTAIN: None

Original Signed by:

Cody Goldthrite
Secretariat