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GRAVITY ENERGY

Thursday, August 2, 2012

RE: Public Comments on the *RPS Guidebook Proposed Changes*

To the California Energy Commission Commissioners;

Mr. Robert B. Weisenmiller, Chairperson
Mr. Andrew McAllister, Commissioner
Ms. Carla Peterman, Commissioner
Ms. Karen Douglas, Commissioner

God Bless the United States! It is a unique privilege that we citizens have to be able to openly express our views in a non-violent respectful manner with the elected and appointed representatives who have great influence over our lives.

California has always been a leader in change! Unlike most places in the USA and around the world Californians love to innovate and do not cling to traditions with blind faith. Our state is known for its creativity, innovation, cultural diversity, and the pace at which we embrace change.

Our state is known around the world for its unique blend of rural beauty: lakes, forests, mountains, deserts, and of course; beaches! But, unlike other beautiful scenic geography we have a thriving economy that rivals nations around the world.

The California Energy Commission was formed to provide guidance on the development of energy resources to provide the people of California with the highest standard of living in the world. The CEC is the agency that is responsible that the lights stay on for business and in our homes.

On the other hand, when current events signaled that the expansion of industry has consequences that affect the environment negatively today the CEC began to address those concerns. Senate Bill X1-2 is the latest legislation that California has passed to insure that California leads the effort to reduce the use of fossil fuels that have a negative impact on our environment. The CEC RPS is a critical component to implement positive solutions.

Why would an agency in charge of reducing pollution and unhealthy dependence on fossil fuels do anything to limit the expansion of technology that will support the mission of the CEC?

How can any employee or representative of the State of California stifle innovation because of some paperwork concerns?

I have included some excerpts from the transcript *"CEC 2012-05-09_transcript.pdf";*

Page 147: Line 22-24 – Comments by Kurt Grossman

I would highly recommend that no additional conditions be added to make it more difficult. I felt it was a very challenging process.

Page 148: Line 10-15 – Comments by Kurt Grossman

In general, I would hope that in this book and in every book in the future that innovation, encouragement, and ways to motivate people to explore new ideas and new inventions are added rather than imposing restrictions without some serious consideration from scientific and other experts.

NEW COMMENT:

The Mission of the CEC is;

Promoting Efficiency and Conservation, ***Supporting*** Cutting-Edge Research, and ***Developing*** Our Renewable Energy Resources

The addition of a restriction against "marine" hydroelectric renewable energy resources does NOT "Promote", "Support", or "Develop!"

Page 152: Line 10-25 – Comments by Kate Zocchetti

MS. ZOCCHETTI: This is Kate Zocchetti. Thank you, Commissioner Peterman, for your remarks.
In the previous guidebook -- that would be the current guidebook, the fourth edition, was revised a year ago -- more than a year ago to add the term "marine" to the definition of hydroelectric because we recognized that it needed to be clarified. Sometimes we don't know things need to be clarified until we learn that there might be confusion about what we mean by a term or a phrase. And based on particularly -- a number of reasons, but particularly based on the requirements in the guidebook for demonstration of eligibility that

clearly refer to streams and waterways as opposed to marine environment.

For example, the source of the water description, water rights, hydrological data, efficiency improvements,

(contd.)

Page 153: Line 1-10 – Comments by Kate Zocchetti

incremental hydro generation, and permits from clean water -- sorry -- from the State Water Resources Control Board all which point to freshwater environments. And I think it's the industry -- I think we didn't realize in the past it seemed to be that we all knew what hydro meant. That it was water running in a natural stream or the law has established for a conduit as well. But it's all water that's moving with gravity in a natural environment. So that's why we added the word "marine."

I think Gabe has something to add.

NEW COMMENT:

Genergy, LLC technology was initially denied "Pre-certification" by the Staff. In a hearing, where Commissioner Carla Peterman presided and former Vice Chairman, Jim Boyd attended remotely we presented the case that hydroelectric is falling water. Genergy, LLC technology uses falling water and the SPGCA-1, LLC was Pre-certified.

Commissioner Peterman was involved in the decision that cleared the path for not only the initial Pre-certification but also for future projects;

> *"[1] The definition of hydroelectric applicable as of the date of this Decision excludes marine uses. The definition could change again. For purposes of this matter only, the Committee orders that the definition of hydroelectric applicable at the time of the submission of the Application for Pre-certification be used in considering any future application for certification that may be submitted for the device that is the subject of this proceeding."*

During the hearing points was made by Commissioner Peterman that;

> *"However, Commission staff clarified for us at the hearing that it reached the conclusion that because the statute*

stated that small hydroelectric was ineligible if it had an adverse impact on a stream, if the device in question was to be placed not in a stream, but offshore, it was not hydroelectric. ***The Committee disagrees with this interpretation.*** *The definition of hydroelectric does not include a requirement that the device be in a stream. It only requires the use of falling water. In this case, the device is not to be placed in a stream* ***and therefore cannot have an adverse impact on a stream****."*

Page 153: Line 11-25 – Comments by Gabe Herrera

MR. HERRERA: Good afternoon, Commissioner. Gabe Herrera with the Energy Commission Legal Office. There's another point that Kate didn't touch on. And that's several years -- I think it was 2005 the Legislature changed the law with respect to RPS eligibility to draw new lines in terms of certifying new hydro facilities after a certain date. And with that change in the law came new requirements, specifically that for a new hydroelectric facility, that's one that commences generation after December 31st, 2005, that that facility should not be certified as an eligible renewable energy resource. [If] It cause an adverse impact on the in-stream beneficial uses or cause a change in the volume or timing of stream flow.

This gets to Kate's point in terms of the

Page 154: Line 1-6 – Comments by Gabe Herrera – (contd.)

Legislature appeared to establish new rules with respect to hydro that appeared to limit its application to natural occurring streams, not in a marine environment. So engineering staff felt justified to further clarify the definition to give meaning to this particular requirement, hence the change to non-marine.

NEW COMMENT:

The CEC not the Legislature is the only agency that has considered the definition of hydroelectric including a marine technology. The Commissioners, including Commissioner Carla Peterman ruled on the matter in a very concise manner to let the Staff know that hydroelectric is falling water.

The Staff has made the same argument that it did in the previous hearing that I was forced to appear at in order to obtain Pre-certification.

NEW COMMENT:

The Staff has not made a new case but has repeated the same objections that they used in the previous hearing where the Commissioners overruled their incorrect interpretation. It is time to end this discussion and move forward without any prejudice towards the type of water that constitutes "water."

We respectfully request that the any reference to "marine" or "non-marine" be stricken from the RPS Guidebook.

We also request that the RPS Guidebook restate the Decision of the Commissioners where they clearly said that since a marine hydroelectric facility cannot have an adverse effect on in-stream beneficial use that any applicant for a marine hydroelectric shall not be required to supply hydrologic data or forms pertaining to streams or water supplies on land.

As far as we know, Kurt Grossman holds the only patent-pending invention rights for a marine hydroelectric device as of August 2, 2012. That will undoubtedly change very quickly!

We have seen amazing interest in our technology from engineers and scientists around the world. Utilities and governments are examining our new technology.

Once there is sufficient comfort with the practicality of such a device inventors and copycats will spring up all over the place. That is how things change. If they do spring up, we should encourage them in every way possible, as long as they serve the best interests of society!