

DOCKETED	
Docket Number:	23-OIR-01
Project Title:	Petitions for Rulemaking
TN #:	255179
Document Title:	Order Granting in Part and Denying in Part Petition for Rulemaking on NEBs and Social Costs
Description:	N/A
Filer:	Chester Hong
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	3/19/2024 3:52:28 PM
Docketed Date:	3/19/2024

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**PETITION FOR RULEMAKING ON
NON-ENERGY BENEFITS AND
SOCIAL COSTS**

**ORDER GRANTING IN PART AND
DENYING IN PART PETITION FOR
RULEMAKING**

I. INTRODUCTION AND PROCEDURAL HISTORY

On February 5, 2024, the Center for Biological Diversity, Central California Asthma Collaborative, California Environmental Justice Alliance, Asian Pacific Environmental Network, Greenlining Institute, Local Clean Energy Alliance, Sierra Club California, The Climate Center, Center on Race, Poverty and the Environment, Clean Coalition, 350 Bay Area, GRID Alternatives, The Protect Our Communities Foundation, the BEEP Coalition, the Local Government Sustainable Energy Coalition, and Environment California (Petitioners) filed with the CEC’s Executive Director a petition to initiate a formal rulemaking pursuant to California Code of Regulations, title 20, sections 1221 and 1222.¹ Petitioners request that the CEC institute a rulemaking proceeding regarding how non-energy benefits (NEBs) and social costs are incorporated into CEC planning and decision-making, including the 2025 Senate Bill (SB) 100 report. SB 100 requires, among other things, that the Public Utilities Commission, the CEC, and California Air Resources Board issue a joint report to the Legislature by January 1, 2021, and every 4 years thereafter, that includes specified information relating to the implementation of the policy that renewable energy and zero-carbon resources supply 100 percent of electric retail sales to end-use customers by 2045.

The Petitioners specifically request that the CEC “adopt an order to institute a rulemaking proceeding to determine methodologies to integrate [NEBs] and social costs into the CEC’s resource planning and investment decision-making processes,” including

¹ Center for Biological Diversity et al., Petition for Rulemaking to Integrate Non-Energy Benefits and Social Costs into Resource Planning and Investment Decision-Making (Feb. 5, 2024), Docket No. 23-OIR-01, TN# 254486, available at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OIR-01>.

any cost-effectiveness determinations made by the CEC.² The Petitioners request that this proceeding inform the development of the SB 100 2025 Joint Agency Report.

The Petitioners further request that the CEC “complete a separate and transparent rulemaking to systematically and comprehensively address” NEBs and social costs in an “iterative process that begins with certain NEBs and social costs, and over time, refines methodologies and includes other NEBs and social costs.”³ Petitioners assert that to accurately reflect the value of NEBs and social costs in the state’s energy procurement decisions, “this rulemaking must develop a methodology that also qualitatively values NEBs and social costs—as standards for resource portfolios to meet—utilizing appropriate lifecycle analyses.”⁴

On February 12, 2024, the Executive Director certified the petition as complete pursuant to California Code of Regulations, title 20, section 1221. On March 6, 2024, CEC staff filed a recommendation that the CEC grant the Petitioners’ underlying request that the CEC address NEBs and social costs in its planning and decision-making, take “other action” on the petition to fulfill this request, and deny the petition to the extent it asks the CEC to issue an Order Instituting a Rulemaking and adopt a regulation pursuant to Government Code sections 11340.6 and 11340.7. CEC staff assert that other action, specifically the issuance of an Order Instituting an Informational Proceeding, would allow for meaningful public engagement and time for the CEC to make well-informed determinations on this important topic.

The CEC considered the petition at its March 13, 2024 Business Meeting.

II. CEC FINDINGS

Based on the entirety of the record, the CEC finds that:

- 1) The petition, filed with the Executive Director on February 5, 2024, meets the requirements of California Code of Regulations, title 20, section 1221.
- 2) The petition requests that the CEC integrate NEBs and social costs into its cost-effectiveness determinations, planning, and decision-making processes. The specific relief sought by petitioners is the issuance of an Order Instituting Rulemaking and the initiation of a formal rulemaking pursuant to the Administrative Procedure Act (APA) (Gov. Code section 11346 et seq.). The petition does not propose new regulatory language, identify existing regulatory language to amend, or identify the provisions of the California Code of Regulations requested to be affected, but instead seeks to initiate a process by which to develop such language.

² Petition at 1, 30.

³ Petition at 4, 6.

⁴ Petition at 4.

- 3) Government Code section 11340.7(c) requires that the CEC, within 30 days of the petition's filing, either deny the petition and indicate why the agency has reached its decision on the merits or grant the petition and schedule the matter for public hearing in accordance with the rulemaking provisions of the Administrative Procedure Act (Govt. Code section 11346 et seq.). California Code of Regulations, title 20, section 1221(c) interprets this provision and requires either a written denial of a petition for rulemaking, or the issuance of an appropriate order pursuant to California Code of Regulations, title 20, section 1222.
- 4) Petitioners agreed on February 6, 2024, to a 7-day extension of time of the 30-day period to allow the CEC to consider this petition at its regularly scheduled business meeting on March 13, 2024.
- 5) PRC sections 25213 and 25218(e) authorize the CEC to adopt rules or regulations or take any action, as necessary, to carry out its statutory duties. California Code of Regulations, title 20, section 1222 authorizes the CEC to issue orders to institute Informational Proceedings to, among other things, gather and assess information to assist the commission in formulating policies.
- 6) Including non-energy benefits and social costs in CEC analysis and decision-making provides a more holistic understanding of the impacts and benefits of investments and decisions.
- 7) The 2025 Joint Agency SB 100 Report process is evaluating methodologies to utilize in the report analysis.
- 8) To the extent that this petition requests the CEC adopt an Order Instituting a Rulemaking and adopt, amend, or repeal a regulation pursuant to Government Code sections 11340.6 and 11340.7, granting it would subject the CEC to an untenable timeline and foreclose the possibility of meaningful public participation.

III. CONCLUSION AND ORDER

- 1) For the reasons stated above, the CEC hereby
 - a. GRANTS the Petitioners' request that the CEC initiate a transparent process to determine methodologies to integrate NEBs and social costs into the CEC's resource planning, processes, and decision-making.
 - b. DETERMINES an Informational Proceeding to be the appropriate forum for this process, and,
 - c. DENIES Petitioners' petition to the extent that it requests the CEC adopt an Order Instituting a Rulemaking and adopt, amend, or repeal a regulation pursuant to Government Code sections 11340.6 and 11340.7.

- 2) CEC staff is directed to file this Order and supporting documentation with the Office of Administrative Law in accordance with Government Code section 11340.7(d), and provide any additional information required to submit this decision pursuant to Government Code section 11340.7.
- 3) Any interested person may obtain a copy of the petition by accessing TN# 254486 in CEC Docket No. 23-OIR-01, or by contacting Chad Oliver, Staff Counsel, at (916) 891-8569.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on March 13, 2024.

AYE: Hochschild, Gunda, Monahan, Gallardo
NAY: NONE
ABSENT: McAllister
ABSTAIN: NONE

Dated: March 14, 2024

SIGNED BY:

Kristine Banaag
Secretariat