

DOCKETED

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Comment Received From: Bob Therkelsen

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Siting Regulation Comments

Additional submitted attachment is included below.

Raven Energy Consulting
872 Iowa Street
Ashland, OR 97520
January 30, 2015

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 14-OII-01
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Mr. Johnson:

I routinely rely on the Power Plant Site Certification Regulations to guide my clients on the Commission's power plant siting process and their role as a participant. I have been particularly appreciative that the regulations describe a clear participatory role for state and local agencies that would have had jurisdiction over a proposed project except for exclusive jurisdiction of the Energy Commission. I was concerned, however, with the regulation modifications proposed in late September 2014 since I believe they significantly reduced the role of interested agencies in the siting process and the weight of their input. The implication of the proposed regulation changes was that if an interested agency wanted to have meaningful input in the process, it would need to become an intervenor.

The most recent power plant siting regulation modifications appear to have addressed some of those concerns:

- Revised Section 1207 now includes interested agencies as a participant in public conferences for the purposes formulating issues, organizing presentations and questioning witnesses, and providing for the exchange of information and comments.
- Revised Section 1743 retains the provision that agency comments and recommendations on safety and reliability factors be presented and considered at the hearings.
- Revised Section 1744 retains the provision that agency comments and recommendations on compliance with applicable laws respectively be presented and considered at the hearings.

One of my remaining concerns is that the modified regulations eliminate the provision for concerned agencies to "review the application and assess whether the report's list of environmental impacts is complete and accurate, whether the mitigation plan is complete and effective, and whether additional or more effective mitigation measures and reasonably necessary, feasible, and available" and present those assessments at the hearings (Existing Section 1742). The modified regulations rather rely on the CEC staff to prepare a preliminary and final environmental assessment. While this is appropriate to meet the needs of CEQA and the Commission's certified regulatory program, it does not encourage state or local agencies to participate and allow the Commission to hear directly from agencies with specific environmental knowledge and expertise. To expressly give interested agencies the opportunity to provide comments

and recommendations on environmental issues and present those at the hearings held in modified Section 1745, I recommend that Section 1743 be further modified to read:

§ 1743. Review of Environmental, Safety and Reliability Factors; Staff and Agency Assessment.

(c) The applicant's information on environmental, safety and reliability factors, the results of the staff's assessment, and any additional agency comments and recommendations shall be presented and considered at hearings on the application held pursuant to Section 17485.

This will clarify that agencies having responsibility for environmental as well as safety issues except for the Commission's exclusive jurisdiction have the opportunity to provide comments and the ability to present those comments at the hearings so they can become part of the hearing record.

Finally, the existing Power Plant Siting Regulations allow the hearing record to include: "public agency comment offered at a hearing or entered into the record of a hearing" (Section 1702 (h) (4)). Section 1212 (b) of the modified regulations discusses the information that is to be contained in the hearing record to serve as the basis for the Commission in reaching a decision but does not specifically discuss the role of public agency input. This appropriately provide interested agencies the opportunity to provide input as part of the hearing process and have that input become part of the hearing record without having to become an intervenor to the proceeding. The proximity of the definition of the hearing record and the discussion on the rights of parties in the same section (Section 1212 (a)), however, can cause some confusion on this point. To provide greater clarity, I recommend that modified Sections 1212 (a) and 1212 (b) be placed in separate sections such as Section 1212 dealing exclusively with the rights of parties and Section 1213 dealing with the record and basis of decision.

Thank you for considering my recommended modifications.

Sincerely,

Bob Therkelsen