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STATE OF CALIFORNIA
California Energy Commission

In the Matter of:)

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2014 Revisions: Title 20 Commission) DOCKET NO. 14-OII-01

Process and Procedure Regulations)

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COMMENTS
COMMITTEE FOR 245 MILLION ACRES
ON THE PROPOSED REVISIONS TO THE COMMISSION'S
PROCESS AND PROCEDURE REGULATIONS,
CALIFORNIA CODE OF REGULATIONS TITLE 20

January 30, 2015

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Committee for 245 Million Acres (245 Com) signed up November 24, 2014, for the siting e-mail list. The first I recall learning about this proceeding is the January 9, 2015 Energy Commission (Commission) e-mail.

Given the three week comment period, and time needed for background preparation, 245 Com respectfully requests a reasonable extension of time to comment.

Commission member committee appointments

New Article 3, Chapter 2 Rules of Practice and Procedure: Renewable Energy Planning and Major Siting proceedings and higher number of Commission committee appointments

An article is necessary for planning, such as the Desert Renewable Energy Conservation Plan process and procedure.

The committee appointed to planning and major siting proceedings should be a majority of Commission members. Among the needs for this, and because of the impact of plans on siting decisions, are fuller Commission engagement in broadly encompassing issues, and taking advantage of committee genius where the strengths of different members make for a stronger process and result due to the addition of the varied strengths of each committee member. Commission member non-direct involvement in planning and siting issues may also be a contributor to less well informed commissioner public commentary about planning and siting related issues. This could undermine committee work or contribute to political pressure undermining the viability of planning and siting efforts.

Public and community involvement including environmental justice

New Article 6, Chapter 3 Data Collection: public involvement

An Article 6 is needed for each proceeding to define the procedure for measuring the adequacy and effectiveness of public involvement including goals for this to be measured against. This includes the commission establishing environmental justice criteria for planning and siting.

Applicant environmental impact reporting anti-rural environmental justice (EJ) interpretation and arguments in the Hidden Hills proceeding proposed defining EJ in a manner that would make EJ irrelevant, if not inapplicable, to much energy siting and planning.

The Commission's reliance on electronic documents and webex services require statewide and siting-area-specific protocols that assess access to electronic documents for household, public and community (a) use, (b) access to, (c) cost of creating and maintaining this use and access, (d) cost of at-home, commercial or Commission printing of documents, (e) costs of upgrading to the Commission computer capability requirements.

Between the Hidden Hills proceeding where I could webex participate, and recent webexes, the Commission withdrew providing service to my MAC OSX 10.5.8 operating system.

Article 3, Section 1745.5 of Chapter 5 Site Certification and New Article 3 Chapter 2 above public involvement findings

The needed finding is that the public and community were adequately informed about, trained as necessary, supplied with documents, and were involved successfully and effectively in the proceeding. This 2014 regulations proceeding should evaluate and include this finding.

Paper copies of Commission documents for public involvement

Article 1 Section 1706, Chapter 5 Siting, and Planning/DRECP document availability.

Commission planning and siting needs to budget to print paper copies for all documents and to print some for release to be made available on request, and should budget for printing and copying later in a proceeding upon request. Executive summaries need to be printed for all public meetings and workshops. Paper document policy needs to be defined to assure that the Commission practices are not de-involving the public, not reducing effective document-based public input, not in effect taxing the public that wants to be involved, not making the costs of public involvement prohibitive, and do not reflect the inability of the State to meaningfully engage in large-area, regional, 22 million acre, planning.

â€¢ Some paper documents were available at DRECP Stakeholder meetings, but then these meetings stopped, perhaps one to two years ago. There should be some budgeted or assumed paper document cost.

â€¢ The four volume DRECP is available at Commission headquarters and other places to review, but the appendices are not printed for the public access at these locations.

â€¢ Requesting yesterday a paper copy of Title 20 regulations copied by the Commission would require \$5.00 per 100 page charge.

â€¢ For me to print, which is my need, the draft DRECP could take three 10-ream boxes of paper and if the Commission copied 12,000 pages for me at \$5.00 per 100, this could be a cost to me of \$600-\$700?, and not much less for me with ink and paper costs.

Science and ecological greenhouse gas sequestration and ecosystem services

Chapter 5 site certification, planning and DRECP approval and amendments

At the earliest time up to or including Notices of Intention to File and Application for Certification and in any planning processes including DRECP, protocols are needed to be established for assessing the existing greenhouse gas sequestration on project sites and land planned for designations, how the land could be managed more effectively for this without the project, and the project in comparison to the land capability. This was the Governor's directive in his recent state of the state address where he said, "And we must manage farm and rangelands, forests and wetlands so they can store carbon." The governor did not directly refer to arid lands, though rangelands are often arid and include arid including desert biological soil crusts (BSCs). BSCs are in the words of Trent Northen of the Berkeley Lab, like a leaf covering the surface of the desert. The Bureau of Land Management has a jointly published manual for BSC management.

It is essential from the inception of project generating site and transmission location exploration to involve the ecological sciences in project conceptualization, location, design, operation, monitoring, decommissioning and so on. Protocols requiring similar early use of these ecological sciences in project location and design are essential. For example, knowing area food web ecology is essential to the relationship of basin and range nutrition element flow, dust and soil health, birds, pollination, bird feeding ranges and so on.

Desert biome (e.g., Mojave) and ecosystem level protocols are necessary to assure the integrity of these deserts.

Protocols for ecosystem services analysis are needed.

Section 1745.5(c), top of page 65 is too limiting a feasibility burden standard for proposed conditions

A list of issues with a lesser burden could be established. A less burdensome finding to meet that a substantial issue has been raised should be all that is necessary. Staff should have the discretion to tackle issues in addition to direction from the presiding officer.

Section 1212(c)(2) is over-limiting for decisional bases

It should be made clear that unsupported conclusions or opinions that at the time they are made are made without supporting evidence, may find supporting evidence elsewhere in the record before or after they are made.

The second to the last explanatory sentence at the bottom of page 23 is overly draconian because there may be other appropriate evidence in the record to support it. Further, a mechanism is needed to identify writing-only comments and for parties to elevate them to evidentiary status. Critical issues that are only written should not be completely ignored. For example, the author could be notified of an opportunity for them to be present at a party could take up the issue. In other words, an issue not raised by a party could be taken up by that party in some manner.

The 1212(c)(2) hearsay rule suggests a process that is too stringent for Commission hearings. Evidentiary determinations should not be handled in the same process as they are in court, and if this is the intent, the standard is vague, e.g., state or federal court? We urge that hearsay be admitted, leaving it up to the presiding officer to determine what weight to give to it.

1745.5 factors

The Commission needs to better define many of the statutory requirements with regulations., such as for PRC 25500, 25523, 25525,

Proposed 1745.5(b)(7) bottom of page 67 requires regulatory including definitional expansion throughout.

The approximately 40-year old January 7, 1975 date limit should be removed for staleness. It also appears to limit or even outlaw significant aspects of DRECP preparation.

Proposed 1745.5(b)(11) regulatory including definition explication.

1745.5 of local government findings.

An affirmative finding is needed to be that local government actions adequately address all necessary siting related issues. For example, there are hundreds of lots, some occupied, most vacant next to the proposed facility.

1745.5 technology maturity and project functioning assessment and assurance

Project engineers and members of other registered professions need to affix their seal and other professional certifications that the project will work as designed.

It should also be permissible for the professional to not make such a certification as long as the project proceeds on a very limited pilot project, and regulations for this process need to be developed.

The decision needs to include a finding that the project is a mature technology and that necessary professional

certifications have been made that it will function as planned. Oral or written statements without professional seal of functional capability should not be accepted or relied upon in the technology maturity assessment.

Declaratory facts and findings

A process should be developed where the presiding at their discretion or motion could issue declarations of facts or findings during or at some point in the proceedings. For comparison see declaratory judgements , page 33. Some issues could be of critical importance that could be resolved without first finishing the proceeding.

Public Adviser role

This needs to be greatly expanded.

A one page handout of applicable rules and processes should be provided to members of the public making oral presentations or submitting writings.

Date: January 30, 2015

Respectfully submitted,

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Committee for 245 Million Acres