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Reply Comments of CURE on Proposed Changes to Siting Compliance Process

Additional submitted attachment is included below.

STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

Siting Compliance Process Review and
Improvement Proceeding

Docket No. 15-OII-01

REPLY COMMENTS OF
CALIFORNIA UNIONS FOR RELIABLE ENERGY
ON PROPOSED CHANGES TO THE ENERGY COMMISSION'S SITING
COMPLIANCE PROCESS

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California Unions for Reliable Energy (“CURE”) submits these reply comments on the proposed changes to the Energy Commission’s siting compliance process. CURE participated in the Commission’s January 23, 2017 workshop, providing support for the Commission’s proposed changes to standardize the compliance process. The proposed changes increase both transparency of the process and public participation in the process by (1) establishing clear requirements for any approval of a project change, including the newly added staff approval, and (2) establishing a formal process for public notice and participation in the process.

At the workshop and in written comments submitted after the workshop, stakeholders proposed allowing staff even more flexibility to approve project changes without involving the Commission itself, and excluding certain changes from the petition for amendment process altogether. Specifically, stakeholders proposed that staff exempt proposed changes from the amendment process that staff determines are exempt from the California Environmental Quality Act.

As we previously explained in our November 13, 2015 post-scoping workshop comments, the Commission’s approval process is a thorough one for a reason – it is the Commission’s obligation to protect environmental quality, ensure a project’s compliance with laws, ordinances, regulations and standards, and ensure a project’s conformity with all applicable air quality requirements.¹ The Commission cannot allow project applicants to make unilateral changes to their projects without any Commission review whatsoever. Allowing a project applicant to unilaterally change any part of the Commission’s license would undermine the Commission’s ability to fulfill its obligations under CEQA and the Warren-Alquist Act. Furthermore, what appears to be an insignificant change in site arrangement, for example, may have significant consequences. Also, a single minor change may be one change in a series of changes that are collectively significant, requiring additional environmental review. Thus, it is imperative that the Commission not carve out exemptions from the amendment process.

Stakeholders also proposed that the regulations be amended to allow staff, in consultation with the appropriate air pollution control district, to approve a proposed change to an air quality condition of certification, *regardless of whether the changes would increase emission limits*. Once again, the Commission’s approval process is thorough because it is the means by which the Commission fulfills its obligations under the law. The Commission’s process results in precise conditions of certification in order to satisfy CEQA and the Warren-Alquist Act, and to ensure a project’s conformity with all applicable air quality requirements. The applicant and staff cannot unilaterally modify conditions of certification, *especially* where the modification would increase emission limits.

¹ 20 Cal. Code Regs. §§ 1752, 1752.3, 1755.

The Commission should not stray from its sound proposed changes to its siting compliance regulations. The proposed changes allow more flexibility in the amendment process, while maintaining the Commission's legal obligations, as well as a clear avenue for public participation.

Respectfully submitted,

/s/

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