

DOCKETED

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*Comment Received From: Steve Uhler
Submitted On: 11/14/2019
Docket Number: 19-BUSMTG-02*

BUSMTG-19-02 Notice of violations of Bagley-Keene Open Meeting Act

BUSMTG-19-02 Notice of violations of Bagley-Keene Open Meeting Act

I observed the following violations of Bagley-Keene Open Meeting Act at the Energy Commission's November 13, 2019 business meeting.

I requested to address the commission after deliberations and prior to action by the legislative body on item 6 of the attached agenda. I was called to address the commission prior to deliberations making it impossible to address the commission about the legislative body's deliberations. The law never requires impossibilities (CIV 3531). My request was made pursuant to GOV 11125.7. (a).

Government Code - GOV 11125.7. (a)

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

I made a request to know if the commissioners knew what I was talking about, in this case the APA (Administrative Procedures Act) during consideration for item 8. I cautioned the commissioners that a yes or no should be provided so to not deprive the public of information to which the member knows or has reason to know the public is entitled. A response was not provided. Perhaps GOV 11130.7 was violated?

Government Code - GOV 11130.7.

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

I requested to address the commission during consideration of item 16. I was not allowed to address the commission on the item. The presiding officer stated I could not speak on the item

because no report was made. I believe GOV 11125.7 makes no such exemption allowing prohibition of public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. My request was made pursuant to GOV 11125.7. (a). I believe GOV 11125.7. (d) was violated. Perhaps GOV 11130.7 was also violated?

Government Code - GOV 11125.7. (d)

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

When a transcript is made available, my claims should be evident in the transcript.

Commission Chair please respond by answering my claims made here.

Steve Uhler
sau@wwmpd.com

Additional submitted attachment is included below.



November 13, 2019

Warren-Alquist State Energy Building
1516 Ninth Street
Art Rosenfeld Hearing Room
Sacramento, California 95814
10 a.m.
(Wheelchair Accessible)

THE COMMISSION WILL CONSIDER AND MAY TAKE ACTION ON THE FOLLOWING:

1. Consent Calendar.

(Items will be taken up and voted on as a group. A commissioner may request that an item be moved and discussed later in the meeting.)

- a. **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT.** Proposed resolution approving Amendment 2 to Grant ARV-16-025 with the South Coast Air Quality Management District to extend the agreement by 13 months, reallocate its budget, replace a subcontractor, and modify its scope of work, and terms and conditions, and adopting staff's determination that this action is exempt from CEQA. (Clean Transportation Program funding) Contact: Alex Wan.
- b. **ASSOCIATION OF WOMEN IN WATER, ENERGY AND ENVIRONMENT (AWWEE).** Proposed resolution approving a purchase order for a one-year commission-wide AWWEE membership for \$2,100. This membership allows up to 20 California Energy Commission (CEC) staff to attend any AWWEE event during the membership year. AWWEE provides multiple venues for collaboration and professional development while connecting with industry experts and decision makers from the state, local, and private sectors. (ERPA funding) Contact: Tiffany Solorio.
- c. **PARTICIPATION IN CPUC EPIC PROCEEDINGS.** Proposed resolution authorizing the CEC's formal participation in the California Public Utilities Commission's (CPUC) new proceeding related to the Electric Program Investment Charge (EPIC) Program, Rulemaking 19-10-005, and authorizing its formal participation in subsequent CPUC proceedings related to the EPIC Program. Contact: Gabriel Herrera.

2. Paul Jacobs.

Proposed resolution recognizing and commending Paul Jacobs for his contributions to the CEC. (Staff Presentation: 5 minutes)

3. Discussion of CEC Energy Resiliency Efforts.

Staff presentation on current CEC activities that support energy resiliency during wildfires and other emergencies, and a discussion of potential actions the CEC could take to advance clean energy resiliency in California. California is experiencing another severe wildfire season, with unprecedented power outages resulting from utility Public Safety Power Shutoff events. These events highlight the importance of advancing energy resiliency in California. Contact: Drew Bohan. (Staff presentation: 15 minutes)

4. Discussion of CEC Progress on Joint Agency Report, Charting a Path to a 100 Percent Clean Electricity Future, Senate Bill (SB) 100 (2018).

Staff presentation on the clean energy goals established by SB 100 and discussion of its requirement to issue a joint agency report to the Legislature by January 1, 2021. Staff will also provide an update of the report development process, including the planned scope and public engagement process. Contact: Terra Weeks. (Staff presentation: 5 minutes)

5. Appliance Efficiency Regulations Rulemaking for General Service Lamps (Docket Number 19-AAER-04).

Proposed resolution adopting a Negative Declaration, including a finding of No Significant Impact under the California Environmental Quality Act (CEQA), and adopting changes to Title 20 §1007 and §§1601-1609 to incorporate amendments to appliance efficiency regulations for general service lamps (GSL). Contact: Patrick Saxton. (Staff presentation: 10 minutes)

- a. **NEGATIVE DECLARATION FOR THE PROPOSED APPLIANCE EFFICIENCY REGULATIONS FOR GSLs.** Negative Declaration, which includes a finding of No Significant Impact under CEQA, for the proposed regulations for GSLs. This proposed adoption comes after a 30-day public comment period necessary to comply with CEQA guidelines.
- b. **APPLIANCE EFFICIENCY REGULATIONS FOR GSLs.** Amendments to Title 20 §1007 and §§1601-1609 to incorporate appliance efficiency regulations for GSLs. The changes include reinstatement of a severability clause, revised definitions for GSL and general service incandescent lamp, new and revised supplemental definitions, alignment of test procedures with mandatory federal test procedures, and alignment of a minimum efficiency performance standard with that in federal statute. This proposed adoption comes after a 45-day public comment period and a public hearing held under the California Administrative Procedure Act.

6. Sacramento Municipal Utility District (SMUD) Community Solar Program.

Proposed resolution approving SMUD's application to administer the new Neighborhood SolarShares Program to meet the requirements under §10-115 of the

2019 Energy Code. Section 10-115 establishes the requirements that must be met for a Community Shared Solar Electric Generation System to be used by a builder/developer as a compliance alternative to the onsite photovoltaics requirement in §150.1(b)1 of the 2019 Energy Code. Contact: Christopher Meyer. (Staff presentation: 5 minutes)

7. Load Management Rulemaking (Docket Number 19-OIR-01).

Proposed Order Instituting Rulemaking to adopt a load management rulemaking under Public Resources Code §25403.5, which authorizes the CEC to establish load management standards. Load management standards previously adopted by the CEC are codified in title 20, §§1621-1625 of the California Code of Regulations. Recent California legislation, including SB 100, Assembly Bill 3232, and SB 49, make clear the need to increase the state's flexible demand resources. This rulemaking will update and add to the load management standards to achieve this goal. Contact: Karen Herter. (Staff presentation: 5 minutes)

8. Variable Capacity Heat Pump (VCHP) Performance Compliance Option.

Proposed resolution to incorporate VCHP computer algorithms into the Alternative Calculation Method and the residential California Building Energy Code Compliance performance compliance software, and to approve associated field verification procedures for use in demonstrating compliance with Standards specified in Title 24 Part 6, §150.1(b) (Public Resources Code §25402.1(b); Title 24, Part 1, Cal. Code Regs., §§10-109, 10-110). Contact: Jeff Miller. (Staff presentation: 5 minutes)

9. Energy Conservation Assistance Act (ECAA) Rulemaking (Docket Number 18-OIR-02).

Proposed resolution repealing the ECAA regulations (California Code of Regulations, Title 20, §§1650-1655), and adopting a determination that this action is exempt from CEQA. Repealing the ECAA regulations will not affect how the ECAA program is currently implemented. Contact: Hally Cahssai. (Staff presentation: 5 minutes)

10. Determination of Consistency of Integrated Resource Plans (IRP) with SB 350.

Adoption of CEC determination that integrated resource plans prepared by Burbank Water and Power, Imperial Irrigation District, City of Redding, and City of Roseville Electric Utility are consistent with the requirements of Public Utilities Code §9621. Contact: Paul Deaver. (Staff presentation: 10 minutes)

- a. BURBANK WATER AND POWER. Proposed resolution adopting CEC's determination finding Burbank Water and Power's IRP Filing consistent with the requirements of SB 350.
- b. IMPERIAL IRRIGATION DISTRICT. Proposed resolution adopting CEC's determination finding Imperial Irrigation District's IRP Filing consistent with the requirements of SB 350.
- c. CITY OF REDDING. Proposed resolution adopting CEC's determination finding the City of Redding's IRP Filing consistent with the requirements of SB 350.

- d. CITY OF ROSEVILLE ELECTRIC UTILITY. Proposed resolution adopting CEC's determination finding the City of Roseville Electric Utility's IRP Filing consistent with the requirements of SB 350.

11. Minutes.

Possible approval of the October 14, 2019, business meeting minutes.

12. Lead Commissioner or Presiding Member Reports.

A lead commissioner on a policy matter may report to the CEC on the matter and discussion may follow. A presiding member on a delegated committee may report to the CEC on the matter and discussion may follow.

13. Executive Director's Report.

14. Public Adviser's Report.

15. Public Comment.

Individuals may speak up to three minutes on any matter concerning the CEC, with the exception of items appearing on this agenda or items related to pending adjudicative (certification or enforcement) proceedings.

16. Chief Counsel's Report.

- a. Pursuant to Government Code §11126(e), the CEC may adjourn to closed session with its legal counsel to discuss any of the following matters to which the CEC is a party:
 - i. *In the Matter of U.S. Department of Energy (High Level Waste Repository)*, (Atomic Safety Licensing Board, CAB-04, 63-001-HLW); *State of California v. United States Department of Energy* (9th Cir. Docket No. 09-71014).
 - ii. *Communities for a Better Environment and Center for Biological Diversity v. Energy Resources Conservation and Development Commission, and California State Controller* (Alameda County Superior Court, Case No. RG13681262).
 - iii. *State Energy Resources Conservation and Development Commission v. Electricore, Inc. and ZeroTruck* (Sacramento County Superior Court, Case No. 34-2016-00204586).
 - iv. *Natural Resources Defense Council, Inc., et al. v. United States Department of Energy* (Federal District Court, Northern District of California, Case No. 17-cv-03404).
 - v. *City of Los Angeles, acting by and through, its Department of Water and Power v. California Energy Resources Conservation and Development Commission* (Los Angeles Superior Court, Case No. BS171477).
 - vi. *Helping Hand Tools v. California Energy Commission, and Vantage Data Centers LLC* (Sacramento Superior Court, Case No. 34-2018-80003026)

- vii. *In re: PG&E Corporation and In re: Pacific Gas and Electric Company* (United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 19-30088).
 - viii. *Chukwuemeka (Emeka) Okemiri v. California Energy Commission, et al.* (Sacramento Superior Court, Case No. 34-2018-00246019).
 - ix. *State Energy Resources Conservation and Development Commission v. HyGen Industries, Inc.* (Sacramento County Superior Court No. 34-2019-00252543).
- b. Pursuant to Government Code §11126(e), the CEC may also discuss any judicial or administrative proceeding that was formally initiated after this agenda was published; or determine whether facts and circumstances exist that warrant the initiation of litigation, or that constitute a significant exposure to litigation against the CEC, which might include:

Participate by Telephone. To participate by telephone, call 1-888-823-5065 on business meeting days after 9:50 a.m. (Pacific Time). The passcode is "business meeting" and the call leader is Jerome Lee. If you plan to speak about a specific item, please give the item number to the operator.

In the event of technical problems with the telephone line, it is recommended that comments be submitted by email to publicadviser@energy.ca.gov or facsimile to (916) 654-4493 by 5 p.m., at least two days before the meeting.

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Public participation. Questions may be directed to the Public Advisor via email at publicadviser@energy.ca.gov, or by phone at 916-654-4489 or 800-822-6228.

Accommodation. Requests may be directed to Yolanda Rushin at 916-654-4310, at least five days before the meeting.

Wi-Fi. Access is available in the building's public areas (atrium, snack bar, and library).

Media. Inquiries may be directed to Media and Public Communications at 916-654-4989.

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Adjournment of Hearings and Meetings. Depending on time and the orderly management of proceedings, the CEC may adjourn (recess or postpone) any noticed hearing or meeting to be continued the next day, another specific date or time, or the next business meeting. Any such adjournment will be noticed at the time the order of adjournment is made. (Government Code §§11128.5, 11129)