

DOCKETED

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RPS-16-03 Frustrating records request

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Dear Public Adviser, Noemi Gallardo,

You have asked for clarification for my records requests.

In your responses you appear to advocate substantive positions on issues before the commission.

Pursuant to Title 20 Section 2554, "In performing duties to the commission, including those duties discharged by advising the public, the adviser shall not represent any members of the public, nor shall he advocate any substantive position on issues before the commission."

The standard for determining when electricity is a product is found in decisional law known as *Fong v. Pacific Gas & Electric Co.*(1988) 199 C.A.3d 30, 38, 245 C.R. 436 [rejecting contention that electricity had become a product since delivery lines had crossed plaintiffs' property line; test is whether it has been metered], *Witkin*. See also <https://law.justia.com/cases/california/court-of-appeal/3d/199/30.html>

None of your responses to my inquiry for the Energy Commission's definition of "product" as it applies to electricity cite *Fong v. Pacific Gas & Electric Co.*(1988).

The definition for "electricity product" in Title 20 Section 3201 does not cite *Fong v. Pacific Gas & Electric Co.*(1988).

You have responded with evidence of commingling and inadequate record keeping that frustrates the public's right to inspect public records the Energy Commission may have or know if a record does not exist.

The lack of records filed pursuant to Title 20 Section 1208 continue to frustrate my efforts to specify public records I wish to inspect.

The docket system still lacks the previous guidebook editions and their orders of adoptions or resolutions. Previous guidebook editions are not deemed part of a proceeding's record pursuant to Title 20 Section 1208 if they only exist outside of the docket system.

The recent removal of https://energyarchive.ca.gov/renewables/documents/old_guidebooks.html from the

Energy Commission's website further frustrates my efforts to inspect public records.

Perhaps this will clarify my request? Please provide the public records, notwithstanding Title 20 Section 1208 that cite Fong v. Pacific Gas & Electric Co.(1988). Expressly state if a record does not exist.

Do so regardless of the Energy Commission's position on Fong v. Pacific Gas & Electric Co.(1988) and Title 20, Chapter 13. Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities.

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