

**DOCKETED**

<b>Docket Number:</b>	23-BUSMTG-01
<b>Project Title:</b>	Business Meeting Agendas, Transcripts, Minutes, and Public Comments
<b>TN #:</b>	250453
<b>Document Title:</b>	Orders and Resolutions for the May 31 2023 Business Meeting
<b>Description:</b>	N/A
<b>Filer:</b>	Kristine Banaag
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	6/1/2023 3:37:02 PM
<b>Docketed Date:</b>	6/1/2023

**STATE OF CALIFORNIA**

**STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION: Lancaster Waste to Renewable Hydrogen Project**

**WHEREAS**, the City of Lancaster (“City”) is the Lead Agency for “Lancaster Waste to Renewable Hydrogen Project” (“Project”), a proposed project to construct a renewable hydrogen production facility in the City; and

**WHEREAS**, the City Development Services Department, in 2022, prepared an Initial Study and Mitigated Negative Declaration (“IS/MND”) and Conditional Use Permit No. 21-06 (“CUP”) for work on 15 acres at the northwest corner of 6<sup>th</sup> Street East and Avenue M (“Project Site”), to SG H2 Lancaster Holding Company, LLC; and which IS/MND included analysis of the Project and evaluated the potential environmental impacts of implementing the Project; and copies of which are on file with the California Energy Commission and are provided in the backup materials; and

**WHEREAS**, the City Development Services Department considered and filed the IS/MND in August 29, 2022, a copy of which is on file with the Energy Commission and is provided in the backup materials; and made mitigation measures a condition of approval; and on December 12, 2022 the City Planning Commission approved the CUP for the Project, a copy of which is also on file with the Energy Commission; and

**WHEREAS**, the Energy Commission has reviewed and considered the City’s IS/MND, mitigation measures, and the findings contained therein, and filed Notice of Determination, and the Energy Commission staff’s findings, which are contained in the Staff Memorandum and CEQA Analysis of ARV-22-011, which is included in the backup materials; and

**WHEREAS**, the Energy Commission is considering proposed Agreement ARV-21-011, “Lancaster Waste to Renewable Hydrogen Project”, a grant to construct the renewable hydrogen production facility; and

**WHEREAS**, Prior to acting on the Agreement ARV-22-011, the Energy Commission desires to make certain findings pursuant to the CEQA Guidelines, title 14, section 15096;

**NOW THEREFORE, BE IT RESOLVED:**

1. The Energy Commission has reviewed the information contained in the IS/MND, mitigation measures, and the CUP that is relevant to its approval of ARV-22-011, and has reviewed the CEQA findings contained in the City’s IS/MND, mitigation measures, and the CUP, which are adopted to the extent that they are relevant to the Energy Commission’s decision to approve ARV-22-011, and has reviewed the Staff Memorandum identified above.
2. The City has already adopted the mitigation measures recommended in the Mitigated Negative Declaration, and the CUP, and has authority to implement the mitigation measures or to seek any required approvals for the mitigation measures, and the Energy Commission has no direct authority to implement the mitigation measures.

3. The Energy Commission has reviewed and considered the IS/MND, mitigation measures, CUP, and Staff Memorandum, and finds that these documents are adequate for its use as the decision-making body for its consideration of ARV-22-011.
4. Approval of ARV-22-011 is within the scope of the Conditional Use Permit 21-06 approved by the City, and within the activities evaluated in the IS/MND and CUP.
5. Since the MND was finalized and filed on August 29, 2022; and since the CUP was approved on December 12, 2022, none of the circumstances within CEQA section 15162 are present and there have been no substantial project changes and no substantial changes in the project circumstances that would require major revisions to the MND or CUP, either due to the involvement of new significant environmental effects or to an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusion set forth in the MND.
6. The Energy Commission has not identified any feasible alternative or additional feasible mitigation measures within its power that would substantially lessen or avoid any significant effect the Project would have on the environment.

**THEREFORE BE IT RESOLVED**, that the Energy Commission finds, on the basis of the entire record before it, that the mitigation measures incorporated in the Conditional Use Permit and Mitigated Negative Declaration will prevent ARV-22-011 from having any significant environmental impacts; and

**BE IT FURTHER RESOLVED**, that the Energy Commission approves ARV-22-011 with SG H2 Lancaster Project Company, LLC for \$3,000,000; and

**BE IT FURTHER RESOLVED**, that this document authorizes the Executive Director or his or her designee to execute the same on behalf of the Energy Commission.

### **CERTIFICATION**

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Energy Commission held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan

NAY: NONE

ABSENT: McAllister

ABSTAIN: NONE

Dated: June 1, 2023

***SIGNED BY:***

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION: Electric Power Research Institute, Inc.**

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

**RESOLVED**, that the CEC approves Agreement 800-22-008 with Electric Power Research Institute, Inc. for up to \$1,500,000, with \$500,000 currently available. Electric Power Research Institute, Inc. will support CEC's evaluation of different pathways for achieving California's clean energy goals as established in Senate Bill (SB) 100 to improve and expand analyses to study the reliability of different future energy scenarios; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan  
NAY: NONE  
ABSENT: McAllister  
ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION: CivicWell**

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

**RESOLVED**, that the CEC approves the \$15,000 Co-Sponsorship Agreement 500-22-004 with CivicWell to participate and support the June 13-14, 2023, California Climate & Energy Forum being held in Santa Rosa, CA; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan

NAY: NONE

ABSENT: McAllister

ABSTAIN: NONE

Dated: June 1, 2023

***SIGNED BY:***

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION: Charge Bliss, Inc.**

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff California Environmental Quality Act (CEQA) findings and the noncompetitive award determination contained in the Agreement or Amendment Request Form (as applicable); and

**RESOLVED**, that the CEC approves Agreement LDS-22-003 with Charge Bliss, Inc. for a \$32,750,000 grant to fund deployment of a 5 MW solar generation and 20 MWh non-lithium-ion Long Duration Energy Storage (LDES) system. The LDES system will be operated as part of a microgrid using solar generation and energy storage to improve the Paskenta Band of Nomlaki Indians site resiliency. The project will demonstrate the microgrid's ability to power critical operations during grid outages, such as Public Safety Power Shut Off events, and peak grid demand; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan  
NAY: NONE  
ABSENT: McAllister  
ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION: Aspen Environmental Group**

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

**RESOLVED**, that the CEC approves Agreement 300-22-004 with Aspen Environmental Group (Aspen), for a contract of up to \$6,000,000. Aspen will provide technical support services across diverse energy research initiatives under CEC energy research programs, including the Electric Program Investment Charge program and the Public Interest Energy Research Gas Research and Development program; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan

NAY: NONE

ABSENT: McAllister

ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

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Liza Lopez  
Secretariat

STATE OF CALIFORNIA

STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION: ASSOCIATION OF WOMEN IN WATER, ENERGY AND  
ENVIRONMENT (AWWEE)

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff California Environmental Quality Act (CEQA) findings contained in the May 10, 2023, memorandum on this topic, finding the following categorical exemptions apply to this purchase order: (1) 14 CCR 15322, Educational or Training Programs Involving No Physical Changes; and (2) 14 CCR 15323, Normal Operations of Facilities for Public Gatherings; and

**RESOLVED**, that the CEC approves a purchase order with AWWEE for \$2,500 for a one-year, commission-wide membership. This membership level allows up to 20 CEC staff to attend any given in-person AWWEE event, and also gives CEC access to all other membership benefits offered. AWWEE provides its members with multiple venues for learning, sharing and professional development while connecting with industry experts from the state, local, and private sectors; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan

NAY: NONE

ABSENT: McAllister

ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

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Liza Lopez  
Secretariat



STATE OF CALIFORNIA

STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

**RESOLUTION: Department of Energy (DOE) - Lawrence Berkeley National  
Laboratory (LBNL)**

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

**RESOLVED**, that the CEC approves amendment 3 to Agreement 600-19-005 with DOE LBNL to increase funding by \$1,150,000, extend the agreement term to December 31, 2026, and revise the Scope of Work to expand analysis to off-road vehicles and equipment, charging infrastructure needs for Assembly Bill 2127 (Ting, 2018) reporting, modeling medium- and heavy-duty fuel cell vehicles for SB 643 (Archuleta, 2021), and assessing non-road sectors (such as aviation, maritime, rail, and emerging technologies); and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan

NAY: NONE

ABSENT: McAllister

ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

***Morton Bay Geothermal Project***

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**Docket No.: 23-AFC-01**

**ORDER FINDING THE APPLICATION  
FOR CERTIFICATION INCOMPLETE,  
ESTABLISHING A COMMITTEE, AND  
THAT THE PROJECT SITE IS  
CAPABLE OF PROVIDING  
GEOTHERMAL RESOURCES IN  
COMMERCIAL QUANTITIES**

**I. BACKGROUND**

On April 18, 2023, Morton Bay Geothermal, LLC, an indirect, wholly owned subsidiary of BHE Renewables, LLC (BHER) filed an Application for Certification (AFC) with the California Energy Commission (CEC) for the Morton Bay Geothermal Project (MBGP or project). The project is on 63 acres of unincorporated Imperial County, bounded by McDonald Road to the north, Davis Road to the east, Schrimpf Road to the south, and the Salton Sea to the immediate west. The location is within the Salton Sea Known Geothermal Resource Area.

The project would have a maximum continuous rating of approximately 157 megawatts (MW) gross, with an expected net output of roughly 140 MW. The project includes geothermal production wells, pipelines, fluid and steam handling facilities, a solids handling system, a 3.2 mile aboveground transmission line, a Class II surface impoundment, a service water pond, a stormwater retention basin, process fluid injection pumps, three power distribution centers, borrow pits, and injection wells.

**II. STAFF RECOMMENDATIONS**

Based on the record described herein, the following actions are recommended by CEC staff (Staff) to process this AFC:

**Completeness of Application**

Public Resources Code section 25540.1 requires the CEC to determine, within 30 days of the receipt of an application for a geothermal powerplant, whether the application is complete. Such determination shall be in writing, and if the application is determined to

be incomplete, shall specify those parts of the application that are incomplete and shall indicate the manner in which they may be made complete. Within 30 days of the CEC's receipt of the additional information requested by CEC from applicant, the commission shall determine whether the subsequent filing is sufficient to complete the notice or application.

On May 8, 2023, the executive director filed in the docket a recommendation regarding the completeness of the MBGP AFC. That recommendation concluded the AFC was not complete. Specifically, the recommendation identified seven of the 23 technical disciplines required for a complete AFC that were deficient based on an analysis under Appendix B, in Title 20 of the California Code of Regulations. The listed deficient areas are Air Quality, Biological Resources, Cultural Resources, Noise and Vibration, Project Overview, Public Health, and Transmission Line Safety and Nuisance.

The executive director recommends the CEC adopt the list of deficiencies identified in the recommendation, and not accept the application as complete until the additional information specified in Attachment B to Staff's Data Adequacy Recommendation [TN 250066] filed May 8, 2023, is provided and accepted.

#### Committee Assignment

Public Resources Code section 25211, as implemented in California Code of Regulations, title 20, section 1204, authorizes the CEC to appoint a committee to hold hearings and make recommended findings regarding the merits of the application. Staff is requesting the CEC assign a committee.

In the Data Adequacy Recommendation, docketed May 8, 2023, staff originally requested the CEC delegate to the committee the consideration of the completeness of the application. Staff withdraws this request pursuant to Public Resources Code section 25540.1, which provides that the determination of whether the application is complete shall be made by the full commission.

#### Commercial Quantities of Geothermal Resources

For geothermal powerplant projects, if the applicant can demonstrate at the outset of the proceeding that the proposed site is capable of providing geothermal resources in commercial quantities, the applicant is excused from the requirement to first file a Notice of Intent pursuant to Public Resources Code section 25502. (Pub. Resources Code §25540.2 subd. (a).) California Code of Regulations, title 20, section 1804 subdivision (a) defines commercial quantities of geothermal resources to mean "enough geothermal steam or hot water resources from a sufficient number of wells to support a reasonable conclusion that a proposed powerplant will be able to achieve the applicant's estimated gross capacity over the life of the project."

California Code of Regulations, title 20, section 1809 subdivisions (b), (c) and (d) provide procedures for the commission's determination of this fact. These procedures require 1) the applicant to present testimony, studies or other evidence in support of its contention that sufficient geothermal resources have been confirmed at the site; 2) CEC staff to present its evaluation of the site's resource capabilities; 3) the California Division

of Oil and Gas (now the California Geologic Energy Management Division or CalGEM) to be requested to review the application and all well records filed with the division concerning wells completed at the site, and 4) CalGEM be requested to present at the hearing its conclusions based on professional experience whether the site is reasonably capable of providing geothermal resources in commercial quantities. If, after considering the evidence, the commission determines the site is reasonably capable of providing geothermal resources in commercial quantities, the application shall proceed in accordance with section 1803 subdivision (b) of title 20 of the California Code of Regulations (completion of the application process within 12-months of the date the application is accepted).

Subdivision (a) of section 1809 permits a committee to make the determination of geothermal resource adequacy if it holds a hearing solely dedicated to making this factual determination. However, California Code of Regulations, title 20 section 1204 subdivision (c), authorizes the commission to, at any time, withdraw any matter from a committee to allow consideration of the matter by the full commission.

The studies filed in the docket evidence that the region's geothermal resources are underdeveloped compared to the field's potential generation and that historically, the geothermal production wells have maintained pressure for decades with minimal loss. The 2023 study (TN 250042) concludes that the geothermal reservoir of the Salton Sea Geothermal Field is quite robust. The simulated forecast demonstrates that the resource can accommodate both existing geothermal power plants and the proposed geothermal power plants including Black Rock, Elmore North, and Morton Bay over the horizon of the evaluation through 2065.

The State's geological experts on geothermal fields, from CalGEM, concur regarding the ability of this site to provide geothermal resources in commercial quantities.

Based on these facts, Staff concludes it is reasonable to expect the proposed project would maintain its gross generating capacity for the project's life, and that the applicant has reasonably demonstrated the site is capable of providing geothermal resources in commercial quantities. Since the current record supports this finding, Staff recommends the CEC conclude pursuant to California Code of Regulations, title 20, section 1809 subdivision (d) that the site is reasonably capable of providing geothermal resources in commercial quantities, and that the application be processed in accordance with California Code of Regulations, title 20, section 1803 subdivision (b). Section 1803 subdivision (b) establishes a 12-month timeline in which to conclude the proceeding, commencing upon the date the commission determines the application has been accepted as complete.

### **III. RECORD SUPPORTING FINDING OF COMMERCIAL QUANTITIES OF GEOTHERMAL RESOURCES**

The record of this proceeding, as contained in the public docket 23-AFC-01 and presented at the business meeting hearing, has been considered by the CEC. The recommended Order is supported by the following evidence in the record:

1. Salton Sea Unit 6 Project Geothermal Resource Evaluation, dated November 13, 2002, containing an evaluation of the adequacy of the Salton Sea Known

Geothermal Resource, filed in the Docket on April 28, 2023, by applicant's representative Jerry Salamy (TN 249913);

2. Numerical Reservoir Simulation of the Salton Sea Geothermal Resource for Power Generation, by BHE Renewables LLC and GeothermEx Consulting Services, dated May 2023, filed in the docket on May 8, 2023, by applicant's representative Jerry Salamy (TN 250042);
3. Staff's Data Adequacy Recommendation (TN 250066), page 3, filed May 8, 2023, which states:

The project is in an area with demonstrated suitability and a history of successful geothermal electricity production, in a region designated as a Known Geothermal Resource Area (KGRA) by the United States Department of the Interior, Bureau of Land Management and by the United States Geological Service. The ENGP and project components, including transmission, pipelines, and wells, are in areas of the county that support geothermal energy production. As determined in 2003 as part of the certification of the Salton Sea Unit 6 project (Docket 02-AFC-02), the CEC found this geothermal resource area contained geothermal resources in commercial quantities. (Docket 23-AFC-01, TN 249913)

To determine whether this previous finding was still valid, Staff reviewed the original analysis, additional updated information, and project specific studies filed into the current project's docket. Staff consulted with the California Department of Conservation, Geologic Energy Management Division (CalGEM), which has expertise in geothermal fields. The studies evidence that the region's geothermal resources are underdeveloped compared to the field's potential generation and that historically, the geothermal production wells have maintained pressure for decades with minimal loss.

Based on these facts, Staff concludes it is reasonable to expect the proposed project would maintain its gross generating capacity for the project's life. Based on the entire record, Staff also concludes that the applicant has reasonably demonstrated the site to be capable of providing geothermal resources in commercial quantities.

4. CalGEM's Geothermal Resource Evaluation (TN 250207), at page 3, filed May 18, 2023, concluding that, "[b]ased on the current knowledge of the geologic structure of the Salton Trough and the Salton Sea Geothermal Field specifically, the updated reservoir modeling as explained in the resources outlined [in the report]..., and our knowledge of reservoir modeling and assessment, we agree with the various studies' contention that there is adequate geothermal resource to support the proposed BHER projects totaling 357 net MW for 30 years."

#### **IV. ENERGY COMMISSION FINDINGS**

Based on the entire record, including the studies, reports and documents filed into the proceeding's public docket, 23-AFC-01, the CEC makes the following findings:

1. Under Public Resources Code section 25540.1 and California Code of Regulations, title 20, sections 1704 and 1709, the CEC concurs with the executive director's recommendation and finds that the AFC is deficient in the information required for an AFC under Appendix B, as identified in the executive director's recommendation dated May 8, 2023.
2. The determination of whether the applicant has reasonably demonstrated the proposed site is capable of providing geothermal resources in commercial quantities is properly before the commission at this hearing because Notice of this hearing was filed in the proceeding's docket on May 19, 2023, and posted as backup material for the business meeting. Also, California Code of Regulations, title 20, section 1204 subdivision (c), permits the commission to at any time withdraw any matter from a committee to allow consideration of the matter by the commission, and California Code of Regulations, title 20, section 1809 subdivision (d) permits the commission to make this determination.
3. In the Salton Sea Unit 6 project proceeding (Docket 02-AFC-02), the CEC previously found the area in which this project is proposed to be capable of providing geothermal resources in commercial quantities as set forth in Public Resources Code section 25540.2.
4. Consistent with California Code of Regulations, title 20, section 1809 subdivision (b), the applicant has presented studies and other evidence in support of its contention that it has reasonably demonstrated that commercial quantities of geothermal resources exist at the site.
5. Consistent with California Code of Regulations, title 20, section 1809 subdivision (c), CalGEM has presented information that the site is reasonably capable of providing geothermal resources in commercial quantities.
6. Based on the evidence in the record, the applicant has reasonably demonstrated that the site is capable of providing geothermal resources in commercial quantities consistent with Public Resources Code section 25540.2.
7. Based on Finding number 6, and pursuant of Public Resources Code section 25540.2(a), no Notice of Intent is required to be filed for this project.

## **V. CONCLUSION AND ORDER**

Therefore, we order the following:

1. The application is data inadequate and incomplete. The list of deficiencies set forth in the executive director's recommendation dated May 8, 2023, is adopted, and establishes that the application is deficient in the areas as set forth above in this Order.
2. The assigned committee will be Commissioner Gallardo as the presiding member and Commissioner McAllister as the associate member.
3. The final determination of whether the application is deemed complete remains with the commission, upon future recommendation by the executive director.
4. The project is not required to file a Notice of Intent.

**IT IS SO ORDERED.**

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, Monahan

NAY: NONE

ABSENT: McAllister

ABSTAIN: NONE

Dated: June 1, 2023

***SIGNED BY:***

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

***Elmore North Geothermal Project***

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**Docket No.: 23-AFC-02**

**ORDER FINDING THE APPLICATION  
FOR CERTIFICATION INCOMPLETE,  
ESTABLISHING A COMMITTEE, AND  
THAT THE PROJECT SITE IS  
CAPABLE OF PROVIDING  
GEOTHERMAL RESOURCES IN  
COMMERCIAL QUANTITIES**

**I. BACKGROUND**

On April 18, 2023, Elmore North Geothermal, LLC, an indirect, wholly owned subsidiary of BHE Renewables, LLC (BHER) filed an Application for Certification (AFC) with the California Energy Commission (CEC) for the Elmore North Geothermal Project (ENGP or project). The project is on 63 acres of a 160-acre parcel in unincorporated Imperial County, bounded by Cox Road to the west, an unnamed dirt road to the north, Garst Road to the east, and West Sinclair Road to the south. This location is within the Salton Sea Known Geothermal Resource area.

The project would have a maximum continuous rating of approximately 157 megawatts (MW) gross, with an expected net output of roughly 140 MW. The project includes geothermal production wells, pipelines, fluid and steam handling facilities, a solids handling system, a 0.5 mile aboveground transmission line, a Class II surface impoundment, a service water pond, a stormwater retention basin, process fluid injection pumps, three power distribution centers, borrow pits, and injection wells.

**II. STAFF RECOMMENDATIONS**

Based on the record described herein, the following actions are recommended by CEC staff (Staff) to process this AFC:

Completeness of Application

Public Resources Code section 25540.1 requires the CEC to determine, within 30 days of the receipt of an application for a geothermal powerplant, whether the application is



complete. Such determination shall be in writing, and if the application is determined to be incomplete, shall specify those parts of the application that are incomplete and shall indicate the manner in which they may be made complete. Within 30 days of the CEC's receipt of the additional information requested by CEC from applicant, the commission shall determine whether the subsequent filing is sufficient to complete the notice or application.

On May 8, 2023, the executive director filed in the docket a recommendation regarding the completeness of the ENGP AFC. That recommendation concluded the AFC was not complete. Specifically, the recommendation identified eight of the 23 technical disciplines required for a complete AFC that were deficient based on an analysis under Appendix B, in Title 20 of the California Code of Regulations. The listed deficient areas are Air Quality, Biological Resources, Cultural Resources, Noise and Vibration, Project Overview, Public Health, Transmission Line Safety and Nuisance, and Waste Management.

The executive director recommends the CEC adopt the list of deficiencies identified in the recommendation, and not accept the application as complete until the additional information specified in Attachment B to Staff's Data Adequacy Recommendation [TN 250067] filed May 8, 2023, is provided and accepted.

#### Committee Assignment

Public Resources Code section 25211, as implemented in California Code of Regulations, title 20, section 1204, authorizes the CEC to appoint a committee to hold hearings and make recommended findings regarding the merits of the application. Staff is requesting the CEC assign a committee.

In the Data Adequacy Recommendation, docketed May 8, 2023, staff originally requested the CEC delegate to the committee the consideration of the completeness of the application. Staff withdraws this request pursuant to Public Resources Code section 25540.1, which provides that the determination of whether the application is complete shall be made by the full commission.

#### Commercial Quantities of Geothermal Resources

For geothermal powerplant projects, if the applicant can demonstrate at the outset of the proceeding that the proposed site is capable of providing geothermal resources in commercial quantities, the applicant is excused from the requirement to first file a Notice of Intent pursuant to Public Resources Code section 25502. (Pub. Resources Code §25540.2 subd. (a).) California Code of Regulations, title 20, section 1804 subdivision (a) defines commercial quantities of geothermal resources to mean "enough geothermal steam or hot water resources from a sufficient number of wells to support a reasonable conclusion that a proposed powerplant will be able to achieve the applicant's estimated gross capacity over the life of the project."

California Code of Regulations, title 20, section 1809 subdivisions (b), (c) and (d) provide procedures for the commission's determination of this fact. These procedures require 1) the applicant to present testimony, studies or other evidence in support of its contention that sufficient geothermal resources have been confirmed at the site; 2) CEC staff to present its evaluation of the site's resource capabilities; 3) the California Division of Oil and Gas (now the California Geologic Energy Management Division or CalGEM) to be requested to review the application and all well records filed with the division concerning wells completed at the site, and 4) CalGEM be requested to present at the hearing its conclusions based on professional experience whether the site is reasonably capable of providing geothermal resources in commercial quantities. If, after considering the evidence, the commission determines the site is reasonably capable of providing geothermal resources in commercial quantities, the application shall proceed in accordance with section 1803 subdivision (b) of title 20 of the California Code of Regulations (completion of the application process within 12-months of the date the application is accepted).

Subdivision (a) of section 1809 permits a committee to make the determination of geothermal resource adequacy if it holds a hearing solely dedicated to making this factual determination. However, California Code of Regulations, title 20 section 1204 subdivision (c), authorizes the commission to, at any time, withdraw any matter from a committee to allow consideration of the matter by the full commission.

The studies filed in the docket evidence that the region's geothermal resources are underdeveloped compared to the field's potential generation and that historically, the geothermal production wells have maintained pressure for decades with minimal loss. The 2023 study (TN 250041) concludes that the geothermal reservoir of the Salton Sea Geothermal Field is quite robust. The simulated forecast demonstrates that the resource can accommodate both existing geothermal power plants and the proposed geothermal power plants including Black Rock, Elmore North, and Morton Bay over the horizon of the evaluation through 2065.

The State's geological experts on geothermal fields, from CalGEM, concur regarding the ability of this site to provide geothermal resources in commercial quantities.

Based on these facts, Staff concludes it is reasonable to expect the proposed project would maintain its gross generating capacity for the project's life, and that the applicant has reasonably demonstrated the site is capable of providing geothermal resources in commercial quantities. Since the current record supports this finding, Staff recommends the CEC conclude pursuant to California Code of Regulations, title 20, section 1809 subdivision (d) that the site is reasonably capable of providing geothermal resources in commercial quantities, and that the application be processed in accordance with California Code of Regulations, title 20, section 1803 subdivision (b). Section 1803 subdivision (b) establishes a 12-month timeline in which to conclude the proceeding, commencing upon the date the commission determines the application has been accepted as complete.

### **III. RECORD SUPPORTING FINDING OF COMMERCIAL QUANTITIES OF GEOTHERMAL RESOURCES**

The record of this proceeding, as contained in the public docket 23-AFC-02 and presented at the business meeting hearing, has been considered by the CEC. The recommended Order is supported by the following evidence in the record:

1. Salton Sea Unit 6 Project Geothermal Resource Evaluation, dated November 13, 2002, containing an evaluation of the adequacy of the Salton Sea Known Geothermal Resource, filed in the Docket on April 28, 2023, by applicant's representative Jerry Salamy (TN 249912);
2. Numerical Reservoir Simulation of the Salton Sea Geothermal Resource for Power Generation, by BHE Renewables LLC and GeothermEx Consulting Services, dated May 2023, filed in the docket on May 8, 2023, by applicant's representative Jerry Salamy (TN 250041);
3. Staff's Data Adequacy Recommendation (TN 250067), page 3, filed May 8, 2023, which states:

The project is in an area with demonstrated suitability and a history of successful geothermal electricity production, in a region designated as a Known Geothermal Resource Area (KGRA) by the United States Department of the Interior, Bureau of Land Management and by the United States Geological Service. The ENGP and project components, including transmission, pipelines, and wells, are in areas of the county that support geothermal energy production. As determined in 2003 as part of the certification of the Salton Sea Unit 6 project (Docket 02-AFC-02), the CEC found this geothermal resource area contained geothermal resources in commercial quantities. (Docket 23-AFC-02, TN 249912.)

To determine whether this previous finding was still valid, Staff reviewed the original analysis, additional updated information, and project specific studies filed into the current project's docket. Staff consulted with the California Department of Conservation, Geologic Energy Management Division (CalGEM), which has expertise in geothermal fields. The studies evidence that the region's geothermal resources are underdeveloped compared to the field's potential generation and that historically, the geothermal production wells have maintained pressure for decades with minimal loss.

Based on these facts, Staff concludes it is reasonable to expect the proposed project would maintain its gross generating capacity for the project's life. Based on the entire record, Staff also concludes that the applicant has reasonably demonstrated the site to be capable of providing geothermal resources in commercial quantities.

4. CalGEM's Geothermal Resource Evaluation (TN 250206), at page 3, filed May 18, 2023, concluding that, "[b]ased on the current knowledge of the geologic structure of the Salton Trough and the Salton Sea Geothermal Field specifically, the updated reservoir modeling as explained in the resources outlined [in the report]..., and our knowledge of reservoir modeling and assessment, we agree with the various studies' contention that there is adequate geothermal resource to support the proposed BHER projects totaling 357 net MW for 30 years."

#### **IV. ENERGY COMMISSION FINDINGS**

Based on the entire record, including the studies, reports and documents filed into the proceeding's public docket, 23-AFC-02, the CEC makes the following findings:

1. Under Public Resources Code section 25540.1 and California Code of Regulations, title 20, sections 1704 and 1709, the CEC concurs with the executive director's recommendation and finds that the AFC is deficient in the information required for an AFC under Appendix B, as identified in the executive director's recommendation dated May 8, 2023.
2. The determination of whether the applicant has reasonably demonstrated the proposed site is capable of providing geothermal resources in commercial quantities is properly before the commission at this hearing because Notice of this hearing was filed in the proceeding's docket on May 19, 2023, and posted as backup material for the business meeting. Also, California Code of Regulations, title 20, section 1204 subdivision (c), permits the commission to at any time withdraw any matter from a committee to allow consideration of the matter by the commission, and California Code of Regulations, title 20, section 1809 subdivision (d) permits the commission to make this determination.
3. In the Salton Sea Unit 6 project proceeding (Docket 02-AFC-02), the CEC previously found the area in which this project is proposed to be capable of providing geothermal resources in commercial quantities as set forth in Public Resources Code section 25540.2.
4. Consistent with California Code of Regulations, title 20, section 1809 subdivision (b), the applicant has presented studies and other evidence in support of its contention that it has reasonably demonstrated that commercial quantities of geothermal resources exist at the site.
5. Consistent with California Code of Regulations, title 20, section 1809 subdivision (c), CalGEM has presented information that the site is reasonably capable of providing geothermal resources in commercial quantities.
6. Based on the evidence in the record, the applicant has reasonably demonstrated that the site is capable of providing geothermal resources in commercial quantities consistent with Public Resources Code section 25540.2.
7. Based on Finding number 6, and pursuant of Public Resources Code section 25540.2(a), no Notice of Intent is required to be filed for this project.

## **V. CONCLUSION AND ORDER**

Therefore, we order the following:

1. The application is data inadequate and incomplete. The list of deficiencies set forth in the executive director's recommendation dated May 8, 2023, is adopted, and establishes that the application is deficient in the areas as set forth above in this Order.
2. The assigned committee will be Commissioner Gallardo as the presiding member and Commissioner McAllister as the associate member.
3. The final determination of whether the application is deemed complete remains with the commission, upon future recommendation by the executive director.
4. The project is not required to file a Notice of Intent.

**IT IS SO ORDERED.**

### **CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, McAllister, Monahan  
NAY: NONE  
ABSENT: NONE  
ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

***Black Rock Geothermal Project***

**Docket No.: 23-AFC-03**

**ORDER FINDING THE APPLICATION  
FOR CERTIFICATION INCOMPLETE,  
ESTABLISHING A COMMITTEE, AND  
THAT THE PROJECT SITE IS CAPABLE  
OF PROVIDING GEOTHERMAL  
RESOURCES IN COMMERCIAL  
QUANTITIES**

**I. BACKGROUND**

On April 18, 2023, Black Rock Geothermal, LLC, an indirect, wholly owned subsidiary of BHE Renewables, LLC (BHER) filed an Application for Certification (AFC) with the California Energy Commission (CEC) for the Black Rock Geothermal Project (BRGP or project). The project is on 55 acres of unincorporated Imperial County, bounded by McKendry Road to the north, Severe Road to the west, and Boyle Road to the east. The location is within the Salton Sea Known Geothermal Resource Area.

The project would have a maximum continuous rating of approximately 87 megawatts (MW) gross, with an expected net output of roughly 77 MW. The project includes geothermal production wells, pipelines, fluid and steam handling facilities, a solids handling system, a 2.2 mile aboveground transmission line, a Class II surface impoundment, a service water pond, a stormwater retention basin, process fluid injection pumps, three power distribution centers, borrow pits, and injection wells.

**II. STAFF RECOMMENDATIONS**

Based on the record described herein, the following actions are recommended by CEC staff (Staff) to process this AFC:

Completeness of Application

Public Resources Code section 25540.1 requires the CEC to determine, within 30 days of the receipt of an application for a geothermal powerplant, whether the application is complete. Such determination shall be in writing, and if the application is determined to be incomplete, shall specify those parts of the application that are incomplete and shall

indicate the manner in which they may be made complete. Within 30 days of the CEC's receipt of the additional information requested by CEC from applicant, the commission shall determine whether the subsequent filing is sufficient to complete the notice or application.

On May 8, 2023, the executive director filed in the docket a recommendation regarding the completeness of the BRGP AFC. That recommendation concluded the AFC was not complete. Specifically, the recommendation identified eight of the 23 technical disciplines required for a complete AFC that were deficient based on an analysis under Appendix B, in Title 20 of the California Code of Regulations. The listed deficient areas are Air Quality, Biological Resources, Cultural Resources, Noise and Vibration, Project Overview, Public Health, Transmission Line Safety and Nuisance, and Waste Management.

The executive director recommends the CEC adopt the list of deficiencies identified in the recommendation, and not accept the application as complete until the additional information specified in Attachment B to Staff's Data Adequacy Recommendation [TN 250071] filed May 8, 2023, is provided and accepted.

#### Committee Assignment

Public Resources Code section 25211, as implemented in California Code of Regulations, title 20, section 1204, authorizes the CEC to appoint a committee to hold hearings and make recommended findings regarding the merits of the application. Staff is requesting the CEC assign a committee.

In the Data Adequacy Recommendation, docketed May 8, 2023, staff originally requested the CEC delegate to the committee the consideration of the completeness of the application. Staff withdraws this request pursuant to Public Resources Code section 25540.1, which provides that the determination of whether the application is complete shall be made by the full commission.

#### Commercial Quantities of Geothermal Resources

For geothermal powerplant projects, if the applicant can demonstrate at the outset of the proceeding that the proposed site is capable of providing geothermal resources in commercial quantities, the applicant is excused from the requirement to first file a Notice of Intent pursuant to Public Resources Code section 25502. (Pub. Resources Code §25540.2 subd. (a).) California Code of Regulations, title 20, section 1804 subdivision (a) defines commercial quantities of geothermal resources to mean "enough geothermal steam or hot water resources from a sufficient number of wells to support a reasonable conclusion that a proposed powerplant will be able to achieve the applicant's estimated gross capacity over the life of the project."

California Code of Regulations, title 20, section 1809 subdivisions (b), (c) and (d) provide procedures for the commission's determination of this fact. These procedures

require 1) the applicant to present testimony, studies or other evidence in support of its contention that sufficient geothermal resources have been confirmed at the site; 2) CEC staff to present its evaluation of the site's resource capabilities; 3) the California Division of Oil and Gas (now the California Geologic Energy Management Division or CalGEM) to be requested to review the application and all well records filed with the division concerning wells completed at the site, and 4) CalGEM be requested to present at the hearing its conclusions based on professional experience whether the site is reasonably capable of providing geothermal resources in commercial quantities. If, after considering the evidence, the commission determines the site is reasonably capable of providing geothermal resources in commercial quantities, the application shall proceed in accordance with section 1803 subdivision (b) of title 20 of the California Code of Regulations (completion of the application process within 12-months of the date the application is accepted).

Subdivision (a) of section 1809 permits a committee to make the determination of geothermal resource adequacy if it holds a hearing solely dedicated to making this factual determination. However, California Code of Regulations, title 20 section 1204 subdivision (c), authorizes the commission to, at any time, withdraw any matter from a committee to allow consideration of the matter by the full commission.

The studies filed in the docket evidence that the region's geothermal resources are underdeveloped compared to the field's potential generation and that historically, the geothermal production wells have maintained pressure for decades with minimal loss. The 2023 study (TN 250040) concludes that the geothermal reservoir of the Salton Sea Geothermal Field is quite robust. The simulated forecast demonstrates that the resource can accommodate both existing geothermal power plants and the proposed geothermal power plants including Black Rock, Elmore North, and Morton Bay over the horizon of the evaluation through 2065.

The State's geological experts on geothermal fields, from CalGEM, concur regarding the ability of this site to provide geothermal resources in commercial quantities.

Based on these facts, Staff concludes it is reasonable to expect the proposed project would maintain its gross generating capacity for the project's life, and that the applicant has reasonably demonstrated the site is capable of providing geothermal resources in commercial quantities. Since the current record supports this finding, Staff recommends the CEC conclude pursuant to California Code of Regulations, title 20, section 1809 subdivision (d) that the site is reasonably capable of providing geothermal resources in commercial quantities, and that the application be processed in accordance with California Code of Regulations, title 20, section 1803 subdivision (b). Section 1803 subdivision (b) establishes a 12-month timeline in which to conclude the proceeding, commencing upon the date the commission determines the application has been accepted as complete.



### **III. RECORD SUPPORTING FINDING OF COMMERCIAL QUANTITIES OF GEOTHERMAL RESOURCES**

The record of this proceeding, as contained in the public docket 23-AFC-03 and presented at the business meeting hearing, has been considered by the CEC. The recommended Order is supported by the following evidence in the record:

1. Salton Sea Unit 6 Project Geothermal Resource Evaluation, dated November 13, 2002, containing an evaluation of the adequacy of the Salton Sea Known Geothermal Resource, filed in the Docket on April 28, 2023, by applicant's representative Jerry Salamy (TN 249911);
2. Numerical Reservoir Simulation of the Salton Sea Geothermal Resource for Power Generation, by BHE Renewables LLC and GeothermEx Consulting Services, dated May 2023, filed in the docket on May 8, 2023, by applicant's representative Jerry Salamy (TN 250040);
3. Staff's Data Adequacy Recommendation (TN 250071), page 3, filed May 8, 2023, which states:

The project is in an area with demonstrated suitability and a history of successful geothermal electricity production, in a region designated as a Known Geothermal Resource Area (KGRA) by the United States Department of the Interior, Bureau of Land Management and by the United States Geological Service. The ENGP and project components, including transmission, pipelines, and wells, are in areas of the county that support geothermal energy production. As determined in 2003 as part of the certification of the Salton Sea Unit 6 project (Docket 02-AFC-02), the CEC found this geothermal resource area contained geothermal resources in commercial quantities. (Docket 23-AFC-03, TN 249911.)

To determine whether this previous finding was still valid, Staff reviewed the original analysis, additional updated information, and project specific studies filed into the current project's docket. Staff consulted with the California Department of Conservation, Geologic Energy Management Division (CalGEM), which has expertise in geothermal fields. The studies evidence that the region's geothermal resources are underdeveloped compared to the field's potential generation and that historically, the geothermal production wells have maintained pressure for decades with minimal loss.

Based on these facts, Staff concludes it is reasonable to expect the proposed project would maintain its gross generating capacity for the project's life. Based on the entire record, Staff also concludes that the applicant has reasonably demonstrated the site to be capable of providing geothermal resources in commercial quantities.

4. CalGEM's Geothermal Resource Evaluation (TN 250205), at page 3, filed May 18, 2023, concluding that, "[b]ased on the current knowledge of the geologic structure of the Salton Trough and the Salton Sea Geothermal Field specifically, the updated reservoir modeling as explained in the resources outlined [in the report]..., and our knowledge of reservoir modeling and assessment, we agree with the various studies' contention that there is adequate geothermal resource to support the proposed BHER projects totaling 357 net MW for 30 years."

#### **IV. ENERGY COMMISSION FINDINGS**

Based on the entire record, including the studies, reports and documents filed into the proceeding's public docket, 23-AFC-03, the CEC makes the following findings:

1. Under Public Resources Code section 25540.1 and California Code of Regulations, title 20, sections 1704 and 1709, the CEC concurs with the executive director's recommendation and finds that the AFC is deficient in the information required for an AFC under Appendix B, as identified in the executive director's recommendation dated May 8, 2023.
2. The determination of whether the applicant has reasonably demonstrated the proposed site is capable of providing geothermal resources in commercial quantities is properly before the commission at this hearing because Notice of this hearing was filed in the proceeding's docket on May 19, 2023, and posted as backup material for the business meeting. Also, California Code of Regulations, title 20, section 1204 subdivision (c), permits the commission to at any time withdraw any matter from a committee to allow consideration of the matter by the commission, and California Code of Regulations, title 20, section 1809 subdivision (d) permits the commission to make this determination.
3. In the Salton Sea Unit 6 project proceeding (Docket 02-AFC-02), the CEC previously found the area in which this project is proposed to be capable of providing geothermal resources in commercial quantities as set forth in Public Resources Code section 25540.2.
4. Consistent with California Code of Regulations, title 20, section 1809 subdivision (b), the applicant has presented studies and other evidence in support of its contention that it has reasonably demonstrated that commercial quantities of geothermal resources exist at the site.
5. Consistent with California Code of Regulations, title 20, section 1809 subdivision (c), CalGEM has presented information that the site is reasonably capable of providing geothermal resources in commercial quantities.
6. Based on the evidence in the record, the applicant has reasonably demonstrated that the site is capable of providing geothermal resources in commercial quantities consistent with Public Resources Code section 25540.2.
7. Based on Finding number 6, and pursuant of Public Resources Code section 25540.2(a), no Notice of Intent is required to be filed for this project.

## **V. CONCLUSION AND ORDER**

Therefore, we order the following:

1. The application is data inadequate and incomplete. The list of deficiencies set forth in the executive director's recommendation dated May 8, 2023, is adopted, and establishes that the application is deficient in the areas as set forth above in this Order.
2. The assigned committee will be Commissioner Gallardo as the presiding member and Chair Hochschild as the associate member.
3. The final determination of whether the application is deemed complete remains with the commission, upon future recommendation by the executive director.
4. The project is not required to file a Notice of Intent.

**IT IS SO ORDERED.**

### **CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, McAllister, Monahan  
NAY: NONE  
ABSENT: NONE  
ABSTAIN: NONE

Dated: June 1, 2023

***SIGNED BY:***

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

**Russell City Energy Center**

**Russell City Energy Company, LLC**

**Docket No.: 01-AFC-07C**

**ORDER APPROVING SETTLEMENT**

**I. BACKGROUND**

Russell City Energy Company, LLC (RCEC) owns and operates the Russell City Energy Center (“facility”) licensed by the California Energy Commission (CEC) and located in Alameda County, California. The Final Commission Decision (Commission Decision) was issued on September 11, 2002, certifying the power project (Docket No. 01-AFC-07C). The Commission Decision governs the construction, operation, and decommissioning of the facility.

On May 27, 2021, the steam turbine and generator at the Russell City Energy Center incurred damage as a result of a mechanical failure due to an overspeed event (“May 27th Event” or “Event”).

Following the May 27th Event, RCEC worked with Energy Commission Staff to enable simple-cycle operations at the Russell City Energy Center to provide critically needed generation capacity and frequency and voltage support to serve local and system grid reliability needs for the State of California during the summer and fall of 2021. On June 3, 2021, RCEC filed a post-certification petition with the CEC to modify Russell City Energy Center’s license to allow the facility to temporarily operate in simple-cycle mode. On July 15, 2021, the Energy Commission voted to approve RCEC’s petition for modifications to allow the facility to temporarily operate in simple-cycle mode, subject to certain limitations in the Energy Commission’s Order No. 21-0715-3.

Immediately after the May 27th Event, RCEC retained Structural Integrity Associates (“SIA”) to conduct an independent failure investigation and to perform a root cause assessment. SIA determined that the May 27th Event was caused by a water induction event. When pressurized, high temperature water condensed in the out-of-service HRSG #1.

From June 2021 through March 21, 2022, CEC and California Public Utilities Commission Staff conducted site visits and investigations at the Russell City Energy Center relating to the May 27th Event.

On April 22, 2022, the CEC staff filed its investigation report, titled Russell City Energy Center May 2021 Incident: Root Cause Gap Analysis (Staff's Investigation Report), to the RCEC compliance docket. Staff's Investigation Report determined that there were three causal factors to the incident. The factors included: deficiencies in maintenance for some critical equipment, deficiencies in control room operator interface and training, and inadequate protection from water induction. These factors led the investigation team to develop additional corrective actions to address the deficiencies that contributed to the incident, which are contained in Chapter 4 of the Staff's Investigation Report and supplemented the corrective actions recommended by SIA.

On April 26, 2022, the Energy Commission found that the corrective actions identified by SIA and the additional corrective actions contained in Chapter 4 of Staff's Investigation Report would be sufficient to enable RCEC to safely return to operations in combined cycle mode and issued Order No. 22-0426-3 authorizing the CEC's Executive Director to verify that all required repairs, testing, and corrective actions were completed before notifying Russell City Energy Center that it could return to combined-cycle operations.

By letter dated June 1, 2022, the Energy Commission Executive Director determined that the necessary corrective actions had been completed and notified Russell City Energy Center that it could restart in combined cycle mode and proceed with normal operations.

On October 11, 2022, CEC Staff sent RCEC a Notice of Violation letter alleging "instances of noncompliance with the General Conditions Including Compliance Monitoring Plan for the Russell City Energy Center."

RCEC cooperated with Energy Commission Staff throughout Staff's investigation and committed significant resources to review and audit the Russell City Energy Center following the May 27th Event, implement operational improvements recommended by Energy Commission Staff, and swiftly repair the Russell City Energy Center so that the facility was available to serve critical energy reliability needs of the State. RCEC has submitted all documents requested by Commission Staff, accommodated Commission Staff site visits, and provided access to documents, facility staff, and resources. Commission Staff and RCEC participated in numerous meetings and took action on many identified items.

RCEC's cooperation and other efforts to repair and improve the Russell City Energy Center have saved the Energy Commission time and resources in further investigation and adjudication of the alleged violations. Given RCEC's continuing and diligent cooperation, the Energy Commission Staff and RCEC believe that rather than engaging in formal adjudication, it would be more productive to enter into this settlement.

## **II. STAFF RECOMMENDATION**

In developing this settlement, Commission Staff considered the cooperation of RCEC; the facts developed by Energy Commission and California Public Utilities Commission staff, RCEC, and SIA during the course of the investigation; the successful efforts by RCEC to restore the Russell City Energy Center to simple-cycle operations to meet local and statewide reliability needs; and the continuing dedication of substantial time, money, and other resources by RCEC to further enhance the safety and reliability of the Russell City Energy Center. Commission Staff applied the relevant factors in Public Resources Code Section 25534.1(e) to determine that settlement, rather than formal adjudication, is a more appropriate use of the Commission's and RCEC's collective resources.

The legal requirements at issue, as well as Commission Staff's allegations, and RCEC's admissions and denials, are included in the Settlement Agreement, which provides for payments of \$1,250,000 by RCEC to the CEC for deposit in the General Fund and \$1,250,000 by RCEC to the City of Hayward to fund energy projects in the city.

Staff recommends that the CEC approve the Settlement Agreement and direct the Executive Director to execute the Settlement Agreement on behalf of the CEC.

## **III. ENERGY COMMISSION FINDINGS**

- 1) Public Resources Code section 25532 requires the CEC to establish a monitoring system to assure that any facility certified by the CEC is constructed and is operating in compliance with air and water quality, public health and safety, and other applicable regulations, guidelines, and conditions adopted or established by the CEC or specified in the written decision.
- 2) Public Resources Code section 25534 empowers the CEC to amend or revoke a license or impose administrative civil penalties.
- 3) Public Resources Code section 25534.1 sets forth factors to consider when determining the amount of an administrative civil penalty.
- 4) In reaching resolution, Staff has considered the factors identified in Public Resources Code section 25534.1, specifically the nature, circumstance, extent, and gravity of the alleged violations, the cost to the state in pursuing the enforcement action, efforts by RCEC to resolve issues, and its overall cooperation.
- 5) The agreed settlement is appropriate and reflects a fair resolution of the issues.
- 6) Approval of the settlement is exempt from the California Environmental Quality Act as set forth in California Code of Regulations, title 14, sections 15060(c)(2) & (3), 15061(b)(2) & (3), 15321, and 15378(a) & (b)(5).

## **IV. CONCLUSION AND ORDER**

The CEC hereby approves the Settlement Agreement and directs the Executive Director or their designee to execute the Settlement Agreement on behalf of the CEC, file a Notice

of Exemption with the Office of Planning and Research, and take any other steps necessary to execute the Settlement Agreement.

**IT IS SO ORDERED.**

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, McAllister, Monahan

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: June 1, 2023

***SIGNED BY:***

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Liza Lopez  
Secretariat

STATE OF CALIFORNIA

STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION: ADOPTION OF SB 846 LOAD SHIFT GOAL

**WHEREAS**, Senate Bill 846 (SB 846, Dodd, Chapter 239, Statutes of 2022) directed the California Energy Commission (CEC), in consultation with the California Public Utilities Commission (CPUC) and the California Independent System Operator (CAISO), to adopt a goal for load shifting to reduce net peak electrical demand; and

**WHEREAS**, SB 846 directed the CEC to adjust this target in each biennial integrated energy policy report; and

**WHEREAS**, SB 846 directed the CEC to consider the findings of the 2020 Lawrence Berkeley National Laboratory report on the Shift Resource through 2030 and other relevant research and the CEC did consider these findings and other relevant research; and

**WHEREAS**, SB 846 directed the CEC, in consultation with the CPUC and CAISO to recommend policies to increase demand response and load shifting that do not increase greenhouse gas emissions or increase electric rates, and the CEC did so consult with the CPUC and CAISO during weekly meetings; and

**WHEREAS**, the CEC hosted a workshop on April 19, 2023, to provide an overview of the proposed load shift goal and to solicit input from interested parties; and

**WHEREAS**, the CEC published the SB 846 Load Shift Goal Report on May 26, 2023, for public review and comment.

**THEREFORE, BE IT RESOLVED**, CEC hereby adopts the Load Shift Goal as it is presented in the *SB 846 Load Shift Goal Report*, incorporating any changes presented and adopted at the May 31, 2023, business meeting, along with any non-substantive changes such as typographical corrections, and directs CEC staff to make the document accessible to state, local, and federal entities, the public, and the Legislature.



**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, McAllister, Monahan

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: May 31, 2023

***SIGNED BY:***

---

Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION: California School Healthy Air, Plumbing, and Efficiency Program  
(20-RENEW-01)**

**WHEREAS**, Assembly Bill 841 (AB 841, Statutes of 2020, Chapter 372), added, among other statutes, Public Utilities Code (PUC) Section 1600 et seq., which directs the State Energy Resources Conservation and Development Commission (CEC) to develop and implement two programs: a program to award grants to local educational agencies to reopen schools with functional ventilation systems that are tested, adjusted and, if necessary or cost effective, repaired, upgraded, or replaced to increase efficiency and performance; and another program to provide grants to state agencies and local educational agencies to replace noncompliant plumbing fixtures and appliances with water-conserving plumbing fixtures and appliances; and

**WHEREAS**, PUC section 1614 directs the CEC to adopt guidelines to establish the eligibility criteria, reporting requirements, and technical standards for these programs: the California Schools Healthy Air, Plumbing and Efficiency (CalSHAPE) Ventilation and Plumbing Programs; and

**WHEREAS**, the CEC, at its June 25, 2021, business meeting adopted the CalSHAPE Ventilation Program Guidelines; and

**WHEREAS**, the CEC, at its August 11, 2021, business meeting adopted revisions to the CalSHAPE Ventilation Program Guidelines to conform with Assembly Bill 137 (AB 137, Statutes of 2021, Chapter 77), which expanded the definition in Public Utilities Code Section 1601 of Local Education Agencies—the eligible entities to receive funding under CalSHAPE—to include Regional Occupational Centers; and

**WHEREAS**, following a public workshop to solicit feedback on lessons learned during early program implementation the CEC, at its June 8, 2022, business meeting adopted the Second Edition of CalSHAPE Ventilation Program Guidelines, which expanded eligibility, clarified certain acceptable application documents and final invoice requirements, and extended the application correction period time; and

**WHEREAS**, CEC staff propose a Third Edition of the CalSHAPE Ventilation Program Guidelines to add requirements for the next phase of program awards for the repair, upgrade, or replacement of Heating, Ventilation, and Air Conditioning systems and add language on additional funding allocated to the program from the Greenhouse Gas Reduction Fund; and

**WHEREAS**, the CEC publicly noticed the proposed changes to the CalSHAPE Ventilation Program Guidelines at least 15 days before the May 31, 2023, business meeting in accordance with the requirements in the Guidelines; and

**WHEREAS**, the CEC's legal office has considered the application of the California Environmental Quality Act (CEQA) to the CEC's adoption of the proposed Third Edition of the CalSHAPE Ventilation Program Guidelines and opined that the CEC's adoption is exempt from CEQA under Title 14, California Code of Regulations, sections 15301, 15302, and 15303; and

**THEREFORE, BE IT RESOLVED**, the CEC hereby finds the adoption of the proposed Third Edition of the CalSHAPE Ventilation Program Guidelines to be exempt from CEQA under Title 14, California Code of Regulations, sections 15301, 15302, and 15303; adopts the proposed Third Edition of the CalSHAPE Ventilation Program Guidelines; and delegates the authority and directs the CEC staff to take, on behalf of the CEC, all actions reasonably necessary to implement the Third Edition of CalSHAPE Ventilation Program Guidelines, including, if necessary, making grammatical or other non-substantive, minor changes to the guidelines as needed.

#### **CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Hochschild, Gallardo, Gunda, McAllister, Monahan

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY:**

---

Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

**Joint Parties' Request for Delay of  
July 1, 2023, MIDAS Rate Upload  
Deadline**

**Docket No.: 23-LMS-01**

**ORDER**

**I. EXECUTIVE DIRECTOR'S RECOMMENDATION**

On April 28, 2023, Pacific Gas and Electric Company (PG&E), on behalf of itself and a group of other load serving entities (LSEs) that are required to comply with the amended load management standards (LMS) regulations (20 California Code of Regulations "CCR" sections 1621, et seq.), filed a written request with the Executive Director of the California Energy Commission (CEC) to extend the LMS regulations' July 1, 2023, deadline for uploading their time-dependent electricity rates in the Commission's Market Informed Demand Automation Server ("MIDAS").

Joining in PG&E's request are the other large investor-owned utilities (IOUs) and large community choice aggregators (CCAs) that are subject to the amended LMS regulations: Southern California Electric Company (SCE), San Diego Gas & Electric Company (SDG&E), Clean Power Alliance of Southern California (CPA), East Bay Community Energy (EBCE), Marin Clean Energy (MCE), Central Coast Community Energy (CCCE), Silicon Valley Clean Energy Authority (SVCE), San Jose Clean Energy (SJCE), Peninsula Clean Energy Authority (PCE), CleanPowerSF (CPSF), Sonoma Clean Power Authority (SCP), San Diego Community Power (SDCP), Pioneer Community Energy (Pioneer), Valley Clean Energy (VCE), and Orange County Power Authority (OCPA), collectively referred to as the "Joint Parties" or "LSEs."<sup>1</sup>

On May 2, 2023, Michael Sokol, Director of CEC's Efficiency Division, acknowledged receipt of the Joint Parties' request, advised the Joint Parties that the CEC expected to respond to their request prior to the July 1, 2023, MIDAS upload deadline and

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<sup>1</sup> On May 15, 2023, Valley Clean Energy submitted a request to be included in the Joint Parties' April 28, 2023, request for a delay. This request was approved by Valley Clean Energy's Board. On May 17, Central Coast Community Energy submitted a similar request approved by its Board and on May 26, Peninsula Clean Energy submitted a like request also approved by its Board. Valley Clean Energy, Central Coast Community Energy, and Peninsula Clean Energy are included as Joint Parties herein.

encouraged the Joint Parties to continue progressing toward meeting the LMS' regulatory requirements while their request was under consideration.

On May 17, 2023, the Executive Director made an initial determination and recommendation regarding the Joint Parties' April 28, 2023, request. The Executive Director initially determined that the Joint Parties had not provided a sufficient basis to justify delaying the MIDAS upload deadline by nine months, but that a delay of one month to upload unbundled rates and a delay of three months to upload rates with rate modifiers would address any technological feasibility issues that had been frustrating the Joint Parties' uploads. The Executive Director recommends that the CEC approve the Joint Parties' request as modified to be consistent with these initial determinations.

## **II. SUMMARY OF THE REQUEST**

The Joint Parties allege grounds exist to extend the LMS regulations July 1, 2023, deadline for them to upload their existing time-dependent rates to MIDAS to "nine months after the final MIDAS protocols are issued by the CEC."

In support of their request for a delay, the Joint Parties contend that requiring them to "upload all of their existing time-dependent rates to the MIDAS database by July 1, 2023 would cause extreme hardship to, and is technologically infeasible for, the Joint Parties because (1) the requirements for RINs are still in development by the CEC, have become very complex, and automating the uploads will require significant time and resources; and (2) MIDAS API functional requirements continue to change and need to be in a stable state with current documentation before the Joint Parties can build the systems and processes needed for automated uploads. The LSEs note that the ability of the LSEs to upload all existing time-dependent rates within the proposed nine-month period is predicated on the LSEs' interpretation of the regulations that each LSE is required to upload its own time-dependent rate (i.e., that rate combination between the CCAs generation and IOUs' transmission and distribution rates is not required)."

The Joint Parties base their request for a delay on two issues that they claim affect their ability to upload their rates to MIDAS.

1. The first issue derives from the way electricity bills are handled for customers of the CCAs. CCA customers receive their electricity bills from the IOUs in whose service areas they are located. CCAs provide the IOUs the electricity generation rates for their customers. IOUs then add the CCAs' generation rates to the IOUs' electricity transmission and distribution rates and compute the customers' bills based on the amounts of electricity the customers use. By virtue of this, according to the Joint Parties, CCAs should only be responsible for uploading the generation portion of their customers' rates to MIDAS while the IOUs should upload the generation and transmission portions of the rates for the CCAs' customers. In other words, the Joint Parties maintain that, for CCA customers, IOUs and CCAs should only be required to upload their own "unbundled rates" to MIDAS.

2. The second issue, according to the Joint Parties, is that the multiplicity of IOU rates due to price modifiers that affect the basic time-dependent rates makes it infeasible to upload anything but base time-dependent electricity rates in the short term.

The Executive Director concludes that the Joint Parties have not provided a sufficient basis for extending their July 1, 2023, upload deadline by a minimum of nine months as they request.

CEC staff has been organizing and facilitating working groups with regulated parties to advance a consensus-based approach to the technical aspects of the data uploads to and downloads from MIDAS. This project has been accomplished as far as uploads are concerned (the software code and instructions are ready and available at <https://gitlab.com/CEC-MIDAS/midas-documentation>) and does not stand as an impediment to the Joint Parties' ability to upload their time-dependent electricity rates by the deadline in the LMS regulations. Issues regarding the multiplicity of IOU rates due to price modifiers are advancing towards resolution.

However, staff has concluded that providing the Joint Parties a shorter extension than requested is warranted.<sup>2</sup> Based on prior correspondence with the Joint Parties and their capability to upload to MIDAS, CEC staff concluded that CCAs and IOUs can upload unbundled time-dependent electricity rates in the short term and that they can accomplish this by August 1, 2023. CEC staff also concluded, based on this experience, that issues regarding the uploads of other rates due to price modifiers can be resolved in time for the Joint Parties to upload their remaining time-dependent rates by October 1, 2023. CEC staff further concluded that providing the Joint Parties this additional time – one month for unbundled rate uploads and three months for rates with price modifiers – to comply and address these issues will alleviate any technological infeasibility that may have frustrated the Joint Parties' efforts to upload their existing time-dependent rates.

On May 26, 2023, SDG&E, SCE, and PG&E submitted comments on the initial determination and proposed order CEC staff docketed on May 19, 2023.

PG&E believes it can comply with the proposed order and seeks no changes.

SDG&E pointed out that a small percentage of its customers have access to hourly dynamic prices through its Vehicle-Grid Integration (VGI) rate and Grid Integrated Rate (GIR), which are based on CAISO hourly price signals for electric vehicles. SDGE maintains that since these customers have access to hourly price signals, and that

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<sup>2</sup> The LMS regulations do not authorize CCAs (or Publicly Owned Utilities) to seek delays in the MIDAS upload deadline directly from the Executive Director but must bundle such requests with the comprehensive requests for compliance plan approval and direct them first to their boards. However, staff concluded that, due to the unique interrelationship that exists between the rates of CCAs and IOUs, it would be impracticable to provide relief to the IOUs on the "unbundled rates issue" without effectively extending it to the CCAs as well.

manually uploading these rates hourly would place an unwarranted excessive burden on its staff, SDG&E should have an extension to upload these rates (which affect less than 0.01 percent of its customers) until April 1, 2024, when SDG&E will have a system in place to upload all of its rates by automated means. CEC staff concurs with SDG&E's request for the reasons stated.

SCE seeks clarification that the proposed order eliminates the regulation's July 1, 2023, upload deadline and replaces it with deadlines for (i) August 1, 2023, for uploading bundled and unbundled rates with no price modifiers, and (ii) October 1, 2023, for price modifiers. CEC staff concurs with this comment and confirm these deadlines.

Second, although the Initial Determination references "rates with price modifiers," SCE seeks clarification that the order would not require it to upload rates with price modifiers that themselves are not time-dependent. A fundamental basis for the Joint Parties' April 28 request is that rate modifiers add complexity to uploading time-dependent rates. The Joint Parties' request did not include a request to exempt uploads of rate modifiers that themselves are not time dependent. Nor should they have because once rate modifiers are added to basic time-dependent rates, the resultant rates are still time-dependent and hence must be uploaded pursuant to the regulation. CEC staff does not concur with SCE on this issue for the reasons stated.

The Executive Director concurs with CEC staff, makes an initial determination that CEC staff's recommendations are supported by the evidence, and recommends that the CEC adopt staff's recommendations at its May 31, 2023, business meeting.

### **III. ENERGY COMMISSION FINDINGS**

The CEC makes the following findings:

- 1) 20 CCR section 1623(b) establishes the requirement for IOUs to upload their existing time dependent rates to MIDAS no later than July 1, 2023, which is three months after April 1, 2023, effective date of the LMS regulations. 20 CCR section 1623.1(c) establishes the identical requirement for Large POUs and Large CCAs.
- 2) 20 CCR section 1621(e) provides a way for Large IOUs to obtain delays and other relief from the MIDAS upload requirement by applying to the CEC Executive Director and the CEC. There is no similar provision in the LMS regulations for Large CCAs or Large POUs to obtain this relief, except by submitting a delay request in conjunction with a comprehensive plan that complies with all the requirements of 20 CCR section 1623.1.
- 3) 20 CCR sections 1621(e)(2) and (3) establish the relevant standards for obtaining delays, by showing either that despite a party's good faith efforts to comply, complying by the deadline in the regulations would cause it extreme hardship or is technologically infeasible.
- 4) 20 CCR section 1621(e)(4) establishes how applications for delays are handled by

the CEC. Under section 1621(e)(4), the Executive Director reviews applications for delays and makes an initial determination of whether an application meets the requirements of either subsection 1621(e)(2) or (3). The Executive Director then submits the application to the CEC with a recommendation of whether to approve or reject the application based on the initial determination. The CEC approves or denies the application based upon the recommendations.

- 5) The Joint Parties have not provided sufficient evidence that would enable a finding that their request for a nine-month delay in the July 1, 2023, MIDAS rate upload deadline meets the requirements of subsection 1621(e)(2) or (3).
- 6) CCAs and IOUs can upload unbundled time-dependent electricity rates to MIDAS in the short term and they can accomplish this by August 1, 2023.
- 7) Issues regarding the uploads of other rates due to price modifiers can be resolved in time for the Joint Parties to upload their remaining time-dependent rates by October 1, 2023.
- 8) Providing the Joint Parties with additional time to address these issues will alleviate any technological infeasibility that may have frustrated the Joint Parties' efforts to upload their existing time-dependent rates.
- 9) Relief from the MIDAS upload requirement is not available to Large CCAs because the LMS regulations do not provide for it, except in conjunction with a comprehensive plan that complies with all the requirements of 20 CCR section 1623.1, which has not occurred. However, the CEC finds good cause to provide the same relief to the Large CCAs as provided to the Large IOUs.
- 10) It is not technologically feasible or cost-effective for SDG&E to upload to MIDAS hourly dynamic prices offered through its Vehicle-Grid Integration (VGI) rate and Grid Integrated Rate (GIR) until it can perform automated rate uploads, which is estimated to be April 1, 2024. These rates are based on CAISO hourly price signals for electric vehicles and represent less than 0.10 percent of SDG&E's customers.

#### **IV. CONCLUSION AND ORDER**

The CEC hereby approves an extension of the Joint Parties' deadline to comply with the upload requirements with the following conditions:

- 1) CCAs and IOUs shall upload bundled and unbundled time-dependent electricity rates by August 1, 2023. By August 1, 2023, CCAs shall upload time-dependent generation rates for their customers to MIDAS, and IOUs shall upload transmission and distribution rates for CCA customers.
- 2) After working with CEC staff to resolve the issues regarding the uploads of other rates due to price modifiers, the Joint Parties shall upload their remaining time-dependent rates by October 1, 2023.



- 3) SDG&E shall upload hourly dynamic prices offered through its Vehicle-Grid Integration (VGI) rate and Grid Integrated Rate (GIR) by April 1, 2024. SDG&E shall file reports of its progress towards meeting this deadline with CEC staff on July 1, 2023, October 1, 2023, January 1, 2024, and April 1, 2024.

**IT IS SO ORDERED.**

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Gallardo, Gunda, McAllister, Monahan

NAY: NONE

ABSENT: Hochschild

ABSTAIN: NONE

Dated: June 1, 2023

***SIGNED BY:***

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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

Western States Petroleum Association  
Petition for Rulemaking

**ORDER DENYING PETITION FOR  
RULEMAKING**

**I. INTRODUCTION AND PROCEDURAL HISTORY**

Effective January 1, 2023, Senate Bill (SB) 1322 (Stats. 2022, ch. 374) amended sections 25362 and 25364 of, and added Section 25355 to, Chapter 4.5, Division 15 of the Public Resources Code (PRC). On March 28, 2023, the Governor signed SB X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1), an act to amend Sections 25354, 25355, 25362, and 25364 of, to add Sections 25354.2, 25355.5, 25355.7, and 25367 to, and to add Chapter 4.6 to Division 15 of the PRC. SB X1-2 will take effect on June 26, 2023. Together, SB X1-2 and SB 1322 add new reporting requirements and enforcement mechanisms to the existing reporting framework of the Petroleum Industry Information Reporting Act (PIIRA) of 1980.

On May 11, 2023, Western States Petroleum Association (WSPA) filed a petition requesting the California Energy Commission (CEC) institute a formal rulemaking regarding implementation of SB X1-2 and SB 1322 (Petition). The Petition asserts that such a rulemaking is needed to clarify terms and processes in SB X1-2 and SB 1322 and to ensure consistent interpretation and implementation of the laws.

On May 18, 2023, the Executive Director certified that the petition met the filing requirements of CCR, title 20, Section 1221. On May 19, 2023, CEC staff filed a recommendation that the CEC deny the Petition as premature and unnecessary because SB X1-2 has yet to take effect and the laws are clear as written. The CEC considered the Petition at its May 31, 2023 Business Meeting.

**II. CEC FINDINGS**

Based on the entirety of the record, the CEC finds that:

- 1) The Petition meets the requirements of CCR, title 20, section 1221.

- 2) Implementation of SB X1-2 and SB 1322 will benefit from an open and transparent public process with robust engagement from regulated entities after SB X1-2 takes effect on June 26, 2023.
- 3) PRC sections 25213 and 25218(e) authorize the CEC to adopt rules and regulations, as necessary, to carry out its statutory duty. The CEC has further authority to implement the provisions of Chapter 4.5 of Division 15 of the PRC through Administrative Procedure Act-exempt regulations and actions pursuant to PRC sections 25354(n)(2) and 25355(o) and to adopt emergency regulations and orders pursuant to PRC section 25367.
- 4) The terms of SB X1-2 and SB 1322, including the data reporting requirements, are clear as written and, accordingly, may be implemented without delay.
- 5) CCR, title 20, section 1221(c), requires that the CEC, within 30 days of the filing of the petition, deny the petition, stating the reason for the denial in writing, or grant the petition, directing staff to prepare an order instituting a rulemaking.

### **III. CONCLUSION AND ORDER**

- 1) For the reasons stated above, the CEC hereby DENIES WSPA's Petition for Rulemaking.
- 2) CEC staff is directed to file this Order and supporting documentation with the Office of Administrative Law in accordance with Government Code section 11340.7(d)

**IT IS SO ORDERED.**

### **CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on May 31, 2023.

AYE: Gallardo, Gunda, McAllister, Monahan  
NAY: NONE  
ABSENT: Hochschild  
ABSTAIN: NONE

Dated: June 1, 2023

**SIGNED BY**

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Liza Lopez  
Secretariat