

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

Informational Proceeding on Methods for
Satisfaction of California Environmental Quality
Act Requirements Relating to Greenhouse Gas
Emission Impacts of Power Plants

Docket 08-GHG OII-1
Order No. 08-1008-11

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COMMENTS OF THE ENERGY PRODUCERS AND USERS COALITION

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Informational Proceeding on Methods for Satisfaction of California Environmental Quality Act Requirements Relating to Greenhouse Gas Emission Impacts of Power Plants

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California has concluded that greenhouse gas (GHG) emissions including that which is generated by power plants can lead to climate change. Assembly Bill 32 concludes that efforts to reduce GHG emissions will combat global warming.¹ Consistent with this determination, Senate Bill 97 requires guidelines to be developed under the California Environmental Quality Act (CEQA) for consideration of GHG impacts within California.² The Commission's Order Instituting Information Proceeding (OIIIP), in response to SB 97, seeks to apply these findings to the power plant siting process. With this foundation in mind, EPUC offers the following comments.

INTRODUCTION AND SUMMARY

The decision to develop a power project in California's evolving and uncertain "hybrid" power market is a complex decision. Prominent among the complexities today is the treatment of GHG emissions. The Commission's OIIIP proposes to address an important facet of GHG uncertainty: How should the Commission address potential GHG emissions from a proposed power plant in the siting process?

The Commission's inquiry presents two considerable challenges. First, the global nature of GHG emissions impacts does not permit a traditional analysis under CEQA. CEQA typically analyzes the impact of emissions in the area of a proposed project. It would be nearly impossible, however, to draw a line of causation from GHG emissions at a particular project site to global climate change and then back to local environmental impacts. Second, the Commission's approach must recognize and avoid conflict with the Air Resources Board's (ARB's) implementation of AB 32. Failure to harmonize its

¹ See AB 32.

² See SB 97.

CEQA review for new power plants with ARB's regulations could result in duplicative regulation within the electricity sector. In short, given the challenges presented by GHG, the Commission should rely heavily on the recommendations in ARB's Scoping Plan rather than a traditional project-by-project analysis. ARB's determinations and recommendations can be incorporated into a GHG CEQA analysis in the following ways:

- As a basis for a categorical power plant exemption under CEQA for GHG emissions purposes;
- To provide parameters for a qualitative and quantitative significance threshold;
- As a basis for determining whether a project presents a cumulatively considerable impact; and/or
- As the ultimate mitigation in the event a project is found to present a risk of a significant effect on the environment

The Energy Producers and Users Coalition (EPUC)³ submits these initial responses to the OIIP in an effort to assist the Commission in resolving an aspect of GHG uncertainty and looks forward to further participation in the Commission's workshops.

RESPONSE TO QUESTIONS

1. GHG emissions have a cumulative impact on climate change that is global by nature. Are such global impacts appropriately subject to CEQA?

Global Impacts of GHG Should Not Be Subject to CEQA

Public Resources Code section 21083.05 obligates the Office of Planning and Research (OPR) to prepare for adoption by the Resources Agency "guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions" under CEQA. As lead agency under CEQA for power plant siting, this Commission must determine how CEQA should apply.⁴ The Commission's task under CEQA would be to identify and mitigate "significant effect[s] on the environment," specifically a significant effect or impact on GHG.⁵ Importantly, CEQA Guidelines provide that if an agency determines that a project has no "*potential for causing a significant effect on the environment,*" it can categorically exempt the project from CEQA review.⁶ As explained below, given

³ EPUC is an ad hoc group representing the electric end use, customer generation Qualifying Facility interests of the following companies: Aera Energy LLC, BP West Coast Products LLC, Chevron U.S.A. Inc., ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, Occidental Elk Hills, Inc., and Valero Refining Company – California.

⁴ See 14 CFR §15002(k)(1).

⁵ 14 CFR §15002

⁶ 14 CFR §15061.

GHG's global impact, it would be difficult to demonstrate that a potential project will cause a "significant effect on the environment" due to the project's emissions as defined by CEQA. For this reason, a strong case can be made that consideration of GHG impacts for power plants in the siting process should be categorically exempt from CEQA.

CEQA focuses on identifying a significant effect on the environment in a local area and it requires that such a finding be supported by substantial evidence. In order to gauge effect of a proposed project on the environment, CEQA requires an evaluation of effects in "the area affected by the proposed project."⁷ These include direct effects on the local environment and indirect effects on "land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems."⁸ Notably, the effects considered need to be "reasonably foreseeable."⁹ In fact, the Guidelines provide that "[i]f, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact."¹⁰ Equally important, CEQA requires that a finding of a significant environmental effect must be supported by "substantial evidence." This requires examination of the whole record and "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."¹¹ CEQA guidelines make clear that "[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment [do] not constitute substantial evidence."¹² Because GHG emissions by a particular project contribute to global, rather than local, impacts, it is not "reasonably foreseeable" and is at best speculative that GHG emissions from a project cause environmental impacts at that location.¹³ Given the weak link between project emissions and impact on GHG, the substantial evidence threshold also cannot be satisfied. In short, the global nature of GHG emissions will preclude a finding of a significant environmental effect in compliance with CEQA standards but it does support a categorical exemption for power plants with respect to GHG impact.

⁷ See, e.g., 14 CCR §15002(g) & 15360.

⁸ 14 CCR §15358(a).

⁹ 14 CCR §15358(a)(2).

¹⁰ 14 CCR §15145.

¹¹ 14 CCR §15384(a).

¹² 14 CCR §15384(a).

¹³ The *Bakersfield Citizens for Local Control v. Bakersfield* case explains how a local area affected by the project is established. *Bakersfield*, 124 Cal.App.4th 1184, 1216 (2004). It explains that the Commission is required to consider significant impacts that the proposed project will cause in the area that is affected by the project. 14 CCR §15126. It also observes that CEQA guidelines direct the agency to "define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used." 14 CCR §15130(b)(1)(B)(3)

Even if the Commission were to conclude that it could not categorically exempt all power plants, it should, at a minimum, categorically exempt those resources that have been called out by ARB to promote the State's emission targets. Specifically, the Commission can categorically conclude that those resources identified as specific reduction measures – renewable and CHP resources – will not have a significant effect on the environment based on determinations in the ARB Plan and regulations. Accordingly, the Commission should categorically exempt renewable and CHP projects from CEQA GHG review so that emissions associated with these resources do not trigger the preparation of an Environmental Impact Report (EIR).

Statewide Recommendations of ARB Are More Appropriate To Address and Mitigate GHG Impact

Aside from the evidentiary hurdle, as a result of GHG's global impact, the traditional project-by-project approach will not be appropriate. First, it overlooks the impact of a single facility on the total electricity sector resource mix. Second, it conflicts with ARB's efforts to promote emission reductions through AB 32. In place of the traditional project-by-project evaluation, the Commission should seek to promote the recommendations made by ARB in compliance with AB 32.

A project-by-project review of potential power plants will be misleading. Whether a power plant addition in fact contributes to an increase in GHG emissions largely depends on the impact it has on the existing resource mix. If a new power plant serves California electricity demand by displacing a higher-emitting plant, the new plant reduces GHG emissions even though it may bring higher GHG emissions to a particular area. Similarly, the emissions associated with a new CHP facility may suggest an impact on GHG unless you take into consideration its replacement of a separate boiler and CCGT, which have much higher emissions. In other words, unless the addition of a power plant is considered in the context of other factors, including its impact on the entire electricity sector power fleet, no conclusions regarding GHG impact can be fairly made.

Instead of a project-by-project analysis, the State should combat GHG emissions by complying with the recommendations in ARB's Proposed Scoping Plan. Such an approach would effectively promote emission reductions. It would also avoid conflict with ARB's regulation under AB 32 -- a result CEQA seeks to avoid.¹⁴ Finally, ARB's approach would effectively reduce GHG emissions

¹⁴ 14 CFR §15040. ("CEQA is intended to be used in conjunction with discretionary powers granted to public agencies by other laws.") Senate Bill 97 which modifies CEQA to require an analysis on the impact of GHG emissions also requires that CEQA regulations not detract from existing regulatory schemes:

Nothing in this section shall be construed as a limitation to comply with any other requirement of this division or any other provision of law. (SB 97; 14 CCR 21097(b)).

especially when coupled with the emission performance standard (EPS) promulgated under SB 1368.

Under ARB's Proposed Scoping Plan, the electricity sector GHG emissions will be heavily regulated, assuring that the sector delivers more than its share of GHG reductions by 2020. Despite the fact that the electricity sector generates 25% of the State's emissions, ARB recommendations would allocate roughly 40% of the State's emission reduction responsibility to this sector.¹⁵ The electricity sector would achieve those reductions through both specific reduction measures¹⁶ and participation in a cap-and-trade program, which was recently framed by the California Public Utilities Commission in Decision 08-10-037. In particular, the Scoping Plan contemplates an increase in renewable resources up to 33 percent of the state's consumption¹⁷ and an additional 4,000 MW in combined heat and power (CHP) generation.¹⁸ ARB recommends these measures on the grounds that they will promote statewide GHG emissions reductions by decreasing the need for traditional fossil-fueled energy production. In addition to ARB's recommendations, the EPS adopted as a result of SB 1368 will limit the State's electricity sector GHG emissions. In short, given GHG's global impact, it is reasonable to conclude that ARB's statewide approach to emissions reduction is a more appropriate way to mitigate effects on the environment than the traditional site-by-site evaluation.

2. Assuming CEQA does apply, what should be the CEQA “threshold of significance” for GHG emissions from a given project?

a. CEQA requires that a cumulative impact be “cumulatively considerable” for it to be significant, and air districts typically set quantitative thresholds for criteria pollutants based on this concept. What GHG emission levels are less than “cumulatively considerable?”

- ◆ **power plant construction emissions?**
- ◆ **“peaking” gas-fired power plants (however defined)?**
- ◆ **emissions from power plants that do not exceed limits set by AB 1368 regulations?**

b. Have other agencies adopted thresholds of significance for GHG emissions?

Commission Should Rely on ARB's GHG Studies and Plans To Develop a Significance Threshold

¹⁵ D.08-10-037, at 11.

¹⁶ Proposed Scoping Plan, at 43-46, 53

¹⁷ Proposed Scoping Plan, at 44-46

¹⁸ Proposed Scoping Plan, at 43-44

Under CEQA, if a categorical exemption is not provided, the Commission would develop a significance threshold to identify effects on the environment.¹⁹ The guidelines clarify that “[a] threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.”²⁰ In other words, there are different types of significance thresholds. Also, a significance threshold must be developed with caution because it will give rise to a presumption that a project has a significant effect on the environment. Options for significance thresholds are discussed below. Regardless of the type developed, it is appropriate to rely upon ARB GHG studies and plans as a basis for a GHG significance threshold.

The Commission should rely on ARB’s GHG studies and plans to develop a qualitative significance threshold. CEQA clarifies that when a categorical exemption is not appropriate, a lead agency is required to perform an Initial Study to determine whether a project may have a significant effect on the environment.²¹ The extensive studies and plans developed by ARB under AB 32 serve as the functional equivalent of an Initial Study for the purpose of evaluating power plant GHG emissions. Through its Proposed Scoping Plan, ARB has taken a holistic approach to achieving GHG reductions in the electricity sector. Its recommendations effectively assume that reductions in GHG emissions in the electricity sector will not be achieved on a project-by-project basis, but rather through the proper mix and balance of electricity resources serving California consumers. ARB’s Scoping Plan and its regulations therefore offer parameters for a qualitative significance threshold.

If the Commission seeks to develop a quantitative significance threshold, it must do so recognizing that the impacts of GHG emissions are global, unlike the more localized impacts of criteria pollutants. A quantitative threshold that works for criteria pollutants will not be appropriate for GHG. In place of a numerical significance threshold, however, the Commission could use a performance level threshold. Any power plant meeting or exceeding a performance benchmark would not have a significant effect on the environment. Performance level benchmarks would differ by resource type. A reasonable threshold for CHP would be a “double benchmark” to account for CHP’s dual energy outputs. Under a “double benchmark” CHP emissions would be deemed insignificant if they are at or below a theoretical emissions rate for the same quantity of energy produced using stand-alone heat and power generation. Similarly, a threshold for other forms of generation would be the emissions rate for the marginal generation alternative: a combined cycle gas turbine. The threshold could be set using the adopted Emissions Performance Standard of 1100 lbs/MWh or, alternatively, another theoretical CCGT emissions rate. If the proposed plant

¹⁹ 14 CFR § 15064.7(a).

²⁰ 14 CFR § 15064.7(a).

²¹ See 14 CFR §§ 15002(k)(2) & 15063.

emitted at or below this threshold, it would be deemed not to be significant.²² The same performance level threshold could be used for new CCGTs, renewable resources firmed with fossil-fired generation and any other pure generation project.

3. ***What is the proper CEQA “baseline” for determining the significance of GHG emissions?***
 - a. ***Are all new power plant projects with emissions that exceed some threshold level “cumulatively considerable” (so called “zero baseline”)?***
 - ◆ ***If so, would the zero baseline apply to solar facilities that burn some natural gas for startup or for generation augmentation?***
 - b. ***Alternatively, should the baseline be the current GHG emissions of the entire electricity generation “system” comprised of all in-state generation and all out-of-state imports? In other words, if the new power plant reduces the State’s overall GHG emissions, would this make the impact less than significant? If this “system” perspective has merit, what analyses might be required to demonstrate, to the degree appropriate, that there is no significant “system” impact from a facility?***
 - c. ***Should certain generation technologies be considered categorically less than significant?***
 - ◆ ***Solar or other renewable facilities?***
 - ◆ ***Gas-fired peakers that help integrate renewables?***
 - ◆ ***Re-powered coastal gas-fired facilities that are more efficient than existing facilities and eliminate once-through cooling impacts on the marine environment?***
 - ◆ ***Gas-fired plants found needed to protect system reliability***

The Commission’s task under CEQA is to identify a significant effect on the environment. A “significant effect on the environment” is “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”²³ As discussed above, the Commission is required to consider direct effects on the local environment and indirect effects on “*land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.*”²⁴ The baseline from which change will be evaluated will have a significant impact on the Commission’s analysis. As discussed below, a zero baseline should be rejected because it would only heighten the problems

²² The use of an output-based value, as used in D.08-10-037, would not be appropriate. The fuel-differentiated output-based value that will be used for GHG allowance allocation in the electricity sector is not a performance standard, but operates simply as a tool to allocate the sector cap among resources in a way that reflects historical contribution by classes of resources.

²³ 14 CCR § 15382; see also Ca. Pub. Res. Code § 21068.

²⁴ 14 CCR §15358(a).

identified with a project-by-project evaluation. It would be more appropriate to rely on ARB's Scoping Plan to provide parameters for the baseline and in the Commission's consideration of indirect environmental effects.

The problems with a project-by-project analysis – unworkable for the reasons explained previously – would be exacerbated by the use of a “zero baseline”. Instead California should focus on reducing GHG emissions from the fleet of power plants by meeting the State's electricity demand through ARB's implementation of AB 32. Reductions in GHG emissions in the electricity sector will not be achieved on a project-by-project basis, but through the proper mix of energy efficiency and electricity resources serving California consumers. A project's emissions above a zero baseline could in fact be a net societal GHG reduction in the context of the ARB Scoping Plan. A zero baseline would be unduly restrictive in these circumstances.

In addition to evaluating the existence of a “substantial, adverse change,” the Commission is required to determine whether “[t]he possible effects of a project are individually limited but cumulatively considerable.”²⁵ The point of reference for determining whether a project's effects are “cumulatively considerable” should be the overall balance of the ARB electricity sector GHG reduction plan. The CEQA Guidelines provide that “[a] lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem...within the geographic area in which the project is located.”²⁶ The Guidelines cite as examples a water quality control plan, an air quality plan, and an integrated waste management plan. The ARB Scoping Plan provides the sort of mitigation program that can meet the requirements of this guideline. Accordingly, if a proposed power plant is consistent with the overall ARB electricity sector program that will produce GHG reductions, the Commission should conclude that the plant's emissions are not “*cumulatively considerable*.”

While relying on the ARB Scoping Plan to determine where “*cumulatively considerable*” impacts exist makes sense for all resources, the case is particularly compelling for specific resources that ARB includes in its recommendations. As noted previously, ARB has designated renewable and CHP resources as specific GHG reduction measures for the electricity sector. ARB thus has determined that these types of resources, up to their specified limits, will reduce GHG emissions in the sector as a part of the system mix. Since these resources effectively comply with the State's efforts to promote emission reductions, the Commission may draw a categorical conclusion that emissions from these types of resources are not significant or cumulatively considerable. No further analysis should be required.

²⁵ Ca. Pub. Res. Code § 21083.

²⁶ 14 CCR §15064(h)(3).

- 4. If an individual power plant is found to have a significant cumulative impact due to GHG emissions, is it feasible to mitigate this cumulative impact? (CEQA defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, legal, and technological factors.”)**
- a. Must mitigation meet the standards that apply to criteria pollutants—e.g., that such mitigation must be certain, enduring, and not duplicative of other measures.**
 - b. Must mitigation be “pound for pound?”**
 - c. What feasible mitigation should be required for power plants? [If net system increases from a project are too uncertain to be quantified, should this affect either the measure or the kind of mitigation?]**
 - d. If the Commission were to find a power plant’s cumulative impact to be significant, and if impacts cannot feasibly be mitigated to a less than significant level, what if any basis should support CEQA “override” findings to allow project approval?**

AB 32 is at its foundation California’s attempt to mitigate both existing contributions to the global GHG problem, as well as any future growth in the State’s contribution. Consistent with that general goal, ARB is identifying specific measures and tools that will facilitate the intended mitigation. In addition to those measures, mitigation will be required from each power plant since they will be subject to the cap-and-trade program for individual power plants. Consequently, assuming the Commission’s analysis finds a project’s GHG emissions significant, demonstration that the plant is a specific ARB measure and/or is required to participate in the cap-and-trade program should be deemed sufficient mitigation.

Imposing any other form of GHG mitigation on a power plant would lead to duplicative regulation. In order to build and operate a power plant, the operator must obtain enough CO₂ allowances to cover its emissions. If the plan proposed by this Commission and the CPUC for the electricity sector is adopted, a power plant operator will be obligated to purchase some portion of the allowances through an auction. Ultimately, by 2016 the operator will be required to purchase all required allowances. If the operator cannot purchase sufficient allowances, it may then be required to purchase offsets under the ARB offsets program. A power plant will be required to pay a price to mitigate its GHG emissions on a pound-for-pound basis. Exacting pound-for-pound mitigation through the siting process would duplicate the ARB’s efforts and unnecessarily burden generation development.

- 5. CEQA provides for the use of programmatic approaches for addressing cumulative impacts, such as for air quality criteria pollutant reduction plans, or water quality emission plans. Is it more appropriate to mitigate power plant GHG emissions case-by-case or with a more encompassing program?**
- a. Could CARB's AB 32 program be such a programmatic approach?**
 - b. If a power plant is consistent with an adopted programmatic approach, should the Commission find that GHG impacts from such a facility are less than "cumulatively considerable?" (See CEQA Guideline Section 15064(h)(3).)**
 - c. If CARB should require a "cap and trade" program pursuant to AB 32, should the adoption of such program change or negate Commission project-by-project mitigation?**
 - ◆ Should the Commission be focusing on interim mitigation for the period prior to the operative effect of a CARB GHG emissions reduction program?**
 - d. Should programmatic mitigation require GHG reductions from "load serving entities" such as utilities rather than from individual in-state power plants?**
 - e. Are there other programs that should be considered?**

As demonstrated throughout these comments, the ARB AB 32 program should weigh heavily in any analysis of power plant GHG emissions. The Commission's approach must recognize that, for the electricity sector, ARB's regulations are likely to maximize the potential for GHG reductions through specific measures and cap-and-trade. These comments point out that the Commission can formalize this recognition in a number of ways, relying on the ARB regulations:

- As a basis for a categorical power plant exemption under CEQA for GHG emissions purposes;
- As an Initial Study upon which a determination can be made that there is no potential for a significant impact;
- As a qualitative significance threshold;
- As a basis for determining whether a project presents a cumulatively considerable impact; and/or
- As the ultimate mitigation in the event a project is found to present a risk of a significant effect on the environment.

This approach would effectively negate the project-by-project mitigation approach that has traditionally been used for other air pollutants.

If the ARB Scoping Plan were certified as an EIR, it could form the basis of a programmatic approach to GHG emissions assessment. Alternatively, this

Commission could prepare an EIR for power plant siting, examining the GHG impacts of resource additions on the existing system mix. CEQA Guidelines provide:

Where an EIR has been prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of this section, any lead agency for a later project pursuant to or consistent with the program, plan, policy, or ordinance should limit the EIR or negative declaration on the later project to effects which:

- (1) Were not examined as significant effects on the environment in the prior EIR; or*
- (2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.²⁷*

In either case, the project-by-project review of a new power plant would be simplified to a determination of whether the project's potential effects were considered in the EIR.

6. *The Commission is authorized to certify a facility (Public Res. Code § 25525) even if it does not conform to applicable state, local, or regional standards, ordinances or laws if it determines that the facility “is required for public convenience and necessity.”*

- a. Should this general provision of law be understood to allow an override of unmitigated GHG emissions if the Commission believes the facility is “needed.”***
- b. If “need” becomes a rationale for certification of unmitigated facilities, is there a limit on the amount of capacity “needed”?***
- c. If there is a quantitative limit on need, how might such a limit be established and periodically updated?***

It is unlikely that the Commission will ever be required to address a project with significant, unmitigated GHG impacts. Whether as a specific identified GHG reduction measure or a cap-and-trade participant, a new power plant of 50 MW or more will without question be a part of the electricity sector GHG mitigation plan. Nonetheless, if a project review were to reach this point, the Commission should be permitted to certify a facility with “unmitigated” GHG emissions if a showing of need for the facility can be made.

As a preliminary matter, it is important to observe that a project-by-project analysis of GHG impacts would not necessarily take into account the electricity system's need for a particular resource. A particular higher emitting peaking resource may be required as a matter of system or local reliability. Likewise, a peaking resource may be required to fill the gaps left by intermittent renewable

²⁷ 14 CCR § 15152(d).

resources, such as wind or solar. In these and other similar circumstances, the Commission must have the flexibility to permit the project to proceed based on need regardless of available GHG mitigation. (Indeed, this system flexibility – permitting utilities and their regulators to tailor resource mixes to meet changing needs -- is precisely the goal of the ARB sector-wide GHG regulation.) The Commission could draw from a variety of studies and analyses in making a qualitative determination of need, including electricity forecasts, CPUC-approved Long-Term Procurement Plans, utility competitive solicitations and other indicators of project need.

While an examination of need may be appropriate in this narrow circumstance, there is no reason that an analysis should extend further to the Commission’s certification process. With the introduction of competition into the wholesale market, the Commission eliminated the historical siting requirement that a project proponent demonstrate a need for the project. Determinations made by market participants, willing to take the financial risk of development, were essentially substituted for the Commission’s analysis and judgment. The general determination of “need” for a new project should remain a market-driven assessment made by the project proponent.

7. The Commission has licensed numerous power plants that have not yet been constructed, some of which have had licenses expire and others have been surrendered voluntarily. To what extent should such “failure” to construct and operate a licensed facility be taken into account in determining whether a power plant’s emissions are significant?

No response.

Respectfully submitted,



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