

STATE OF CALIFORNIA
Energy Resources Conservation
And Development Commission

DOCKET	
08-WHCE-1	
DATE	DEC 17 2008
RECD.	JAN 09 2009

2008 Rulemaking on Implementation of the
Waste Heat and Carbon Emissions Reduction Act

ENERGY COMMISSION ORDER
Order No. 08-1217-16
Docket No. 08-WHCE-1

ORDER INSTITUTING RULEMAKING

I. PURPOSE OF THE PROCEEDING

Through this Order, the State Energy Resources and Development Commission (Energy Commission) hereby institutes a rulemaking proceeding to implement the Waste Heat and Carbon Emissions Reduction Act (the Act). The Act is codified in Section 2840 through 2845 of the Public Utilities Code, as enacted in AB 1613 (Blakeslee, Chapter 713, Statutes of 2007) and amended in AB 2791 (Blakeslee, Chapter 253, Statutes of 2008).

This Order also clarifies, and to the extent necessary extends, the authority of the standing Electricity and Natural Gas Committee to oversee implementation of the Act. This Order supplements Commission Order No. 08-0312-6, which established and specified the purposes and assignments of the various Energy Commission Standing Committees, including the Electricity and Natural Gas Committee.

These actions are taken pursuant to sections 25004.2, 25210, 25211, 25213, and 25218(e), of the Public Resources Code, Sections 2840 through 2845 of the Public Utilities Code, and Sections 1204 and 1220 through 1225 of Title 20 of the California Code of Regulations.

II. SCOPE OF THE ACT

The Act is designed to encourage the development of new combined heat and power (CHP) systems in California with a generating capacity of not more than 20 megawatts. It directs the

Public Utilities Commission (PUC), local publicly owned electric utilities (Municipal Utilities), and the Energy Commission to establish policies and procedures for the purchase of electricity from eligible CHP systems, and directs the State Air Resources Board (ARB) to report on the reduction in emissions of greenhouse gases resulting from the increase of new electricity generation from CHP under the Act.

The Act specifically directs the Energy Commission to adopt by January 1, 2010 guidelines establishing technical criteria for eligibility of CHP systems for programs to be developed by the PUC and Municipal Utilities to incent the development of CHP in California, including (1) a standard tariff for the sale of electricity to electricity corporations for delivery to the electrical grid, and (2) a “pay as you save” pilot program requiring electricity corporations to finance the installation of qualifying CHP systems by nonprofit and government entities.

Section 2843 of the Act provides that the Energy Commission’s guidelines shall require CHP systems be designed to reduce waste energy, be sized to meet the eligible customer generation thermal load, operate continuously in a manner that meets the expected thermal load and optimizes the efficient use of waste heat, and be cost effective, technologically feasible and environmentally beneficial.

The Act authorizes the Energy Commission to adopted temporary guidelines prior to January 1, 2010, and provides that the guidelines to be adopted by the Energy Commission under the Act shall be exempt from the requirements of Chapter 3.5 (commencing with Section 1340) of Part 1 of Division 3 of Title 2 of the Government Code.

II. COMMITTEE DELEGATION AND AUTHORIZATION

The Electricity and Natural Gas Committee (consisting of Presiding Member Commissioner Jeffery D. Byron and Associate Member Commissioner James D. Boyd) or a successor Committee with similar powers and duties appointed under Public Resources Code Section 25211 (the Committee) shall preside over this proceeding. The Committee shall, on behalf of the Commission, take all actions necessary and appropriate to comply with all applicable legal requirements, including but not necessarily limited to the Warren-Alquist Act, the Waste Heat and Carbon Emissions Reduction Act, and the California Environmental Quality Act.

The Committee is authorized to work collaboratively with the PUC and ARB to ensure implementation of the Act in a manner consistent with its legislative purpose. Any and all decisions, policies, guidelines, rules or regulations proposed by the Committee in this rulemaking procedure shall become final when formally adopted by the Energy Commission at a business meeting.

The powers and duties conferred upon the Committee in this Order shall be in addition to those powers and duties authorized under the Warren-Alquist Act (Public Resources Code 25000 et seq.), the Energy Commission's Regulations (Division 2 of Title 20 of the California Code of Regulations, commencing with section 1001), Commission Order No. 08-0312-6, and any subsequently adopted Commission order specifying the powers and duties of the Standing Committees of the Energy Commission unless such order expressly references this Order and modifies the powers and duties conferred herein.

This rulemaking procedure shall be conducted in a manner consistent with Public Resources Code Section 25004.2, in which the Legislature stated that "cogeneration technology . . . should be an important element of the State's energy supply mix . . . which can assist meeting the State's energy needs while reducing the long-term use of conventional fuels . . . and reduces negative environmental impacts."

III. PUBLIC PARTICIPATION

The Commission encourages public participation in this proceeding. The filing of a Petition to Intervene pursuant to Section 1207 of Title 20 is not required for a person to participate in or comments on this proceeding. Any person present at any hearing or workshop shall be afforded a reasonable opportunity to make oral comments on the subject matter of the proceeding, and any person may file written comments in this proceeding in the manner specified by the Committee.

All written comments shall be addressed to:

Docket No. 08-WHCE-1
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, CA 95814

Nine copies of all written materials shall be provided unless it would impose an undue hardship.

The Executive Director, in conjunction with the Public Adviser, shall ensure that this Order and notices of hearings and workshops are distributed to all interested persons, and that drafts of all rules, regulations, guidelines or similar documents are made available sufficiently in advance of consideration or adoption by the Commission to allow for timely participation, consistent with the requirements of Section 2843(c) of the Act. Elena Miller, the Energy Commission's Public Adviser, is available to facilitate the participation of any person in this proceeding and may be reached by calling (916) 654-4489 or toll-free in California at (800) 822-6228.

Date: December 17, 2008

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

Original signature in dockets _____
JACKALYNE PFANNENSTIEL
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Original signature in dockets _____
JAMES D. BOYD
Vice-Chair

Original signature in dockets _____
ARTHUR H. ROSENFELD
Commissioner

Original signature in dockets _____
JEFFREY D. BYRON
Commissioner

Original signature in dockets _____
KAREN DOUGLAS, J.D.
Commissioner