



**Pacific Gas and
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California Energy Commission
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1516 Ninth Street
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DOCKET	
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Subject: *Pacific Gas and Electric Company's Comments
Renewable Energy Executive Order Implementation
Docket No. 09-Renew EO-01*

INTRODUCTION

Pacific Gas & Electric Company (PG&E) appreciates the opportunity to provide written comments to assist the California Energy Commission (CEC), the California Department of Fish and Game (CDFG), the Bureau of Land Management (BLM) and the United States Fish and Wildlife Service (USFWS) in implementation of Governor's Executive Order S-14-08 issued on November 17, 2008 (EO). PG&E applauds the efforts of the state and federal agencies in streamlining permitting for renewable energy. PG&E remains committed to renewable energy as evidenced by its energy procurement practices and its efforts to develop utility owned renewable generation.

As a load-serving entity subject to meeting RPS goals, our perspective includes those of a developer and a purchaser of renewable energy. On both fronts our main goal is to obtain a permitting process that provides certainty in both the timing and outcome of projects in order to deliver renewable energy into our system. While we acknowledge that renewable development poses many challenges, we remain confident that renewable projects can be permitted in a timely fashion without compromising the state's overall environmental objective. We should not lose sight of the fact that renewable generation is not only mandated, it is the primary method to address climate change impacts from the energy sector. It is with these goals in mind that we offer the following comments and suggestions to implement the EO.

PERMITTING HURDLES

We have identified three main areas that we believe any plan to implement the EO should address. They are the amount of time necessary to permit projects, the lack of substantive guidance to developers at the outset of the permitting, and the need for expedited transmission siting and permitting. Each is addressed below.

Timing and Process

Many of the applications for permits for renewable development are located within the California Desert Region and involve the use of federally managed land. Those that do not involve development of federally managed land often include a transmission intertie that must cross federally managed land. In many cases, development in the desert may affect federally listed species. For these reasons, in the vast majority of currently proposed projects, the state agencies and federal agencies must interact. This required coordination adds time to an already extensive environmental review process. While we acknowledge that state agencies are fulfilling mandates under state law and federal agencies are fulfilling mandates under federal law, we believe that it is possible to satisfy all requirements without duplicating efforts and without compromising environmental goals.

Appoint One Agency As Lead

We recognize that BLM must ultimately comply with the National Environmental Policy Act (NEPA) in order to issue a right-of-way grant for renewable development. We also recognize that for thermal projects with the capacity to generate greater than 50 megawatts, the CEC must certify the site and facility in order to grant authority to construct and operate the facility and associated transmission intertie and conduct its environmental review under the California Environmental Quality Act (CEQA). While we understand that the law does not allow either agency to delegate its ultimate responsibility to consider the environmental effects of a proposed project, we believe that each agency should continue to rely on a jointly prepared environmental document. However, when the agencies are preparing a joint environmental document one of the agencies should be appointed as the lead for each environmental topic area. For example, for state listed species, the CDFG should be the lead. For federally listed species, the USFWS should be the lead. For cultural resources, BLM should be lead and should coordinate any consultation with the State Historic Preservation Officer and Native Americans. Since NEPA requires a more detailed alternative analysis than CEQA, BLM should lead the alternative analysis. Similarly, since the CEC has expertise concerning electrical generation, it should take the lead on Facility Design, Project Description and other engineering topic areas. Similarly, since BLM is most familiar with the land it manages, it should conduct the visual analysis.

We believe that this approach does not result in an inappropriate delegation of any agency's responsibilities, but instead places the agency with the appropriate expertise in a coordinating role. This should also result in a more efficient allocation of workload, as agencies could rely on the analysis of the lead agency for each topic area. While each agency will maintain a project manager, the technical sections would be written by each assigned agency as opposed to co-writing each section.

Information Requirements of Applicants

Some applicants have identified confusing and inconsistent requirements to provide information before and during the permitting process as a cause of delay. The agencies should develop consistent, uniform information requirements and communicate them to applicants with one voice. For example, uniform biological and cultural survey protocols should be developed quickly and applied uniformly to all applicants. While the agencies have recently done a good job in holding joint meetings, published protocols would decrease the need for such meetings and would provide the clarity necessary.

Uniform and Clear Schedules

Agencies should develop clear schedules that apply not only to the Applicant, but to agency actions as well. Renewable energy is clearly a priority; an applicant who provides all of the information requested is entitled to have the agency meet its internal and external schedule for publishing documents and holding meetings and hearings.

Joint Public Meetings

The agencies should notice public meetings in such a way as to accomplish compliance with both state and federal laws. The schedule should be designed to ensure that public notices are timely, sent to the correct parties and members of the public, and conducted in an efficient manner while avoiding duplication. For example, the CEC's Site Visit and Informational Hearing should also be the BLM's EIS Scoping Meeting. Workshops noticed under the CEC process should also be noticed as federal workshops and public hearings to receive public input on the project. Finally, for projects within its jurisdiction, the CEC's evidentiary hearing process should be available to resolve disputes.

Substantive Guidance

Developers of renewable generation need substantive guidance in order to incorporate mitigation and policy requirements into the design of these complex renewable projects. In addition, the mitigation may be too cumbersome for some of the projects to move forward. This substantive guidance is necessary to ensure that applicants who bid into a utility's request for offers (RFO) understand and account for the true costs of the projects they are proposing. This lack of certainty can easily result in projects being considerably under- or over-priced. In the current financial climate many developers are entering into power purchase agreements (PPAs) prior to obtaining permits and therefore permitting delays and unforeseen mitigation costs are causing failure of some of these contracts. Substantive guidance will allow utilities to evaluate each developer's bid to ensure it takes account of the cost and time necessary to secure permits and provide adequate mitigation. Substantive guidance would help ensure consistent implementation of agency policies in various field offices, as well as reduce workload issues and assist the agencies in forecasting additional resources needed to meet timing requirements.

Best Management Practices

We understand that the CEC is currently working to prepare a Best Management Practices Guideline to assist developers at an early stage in understanding the types of requirements that would be imposed during construction and operation of a renewable facility. We support this concept and urge the CEC to develop these BMPs quickly. We note that many of the BMPs already exist. The CEC often conditions projects requiring detailed plans regarding: cultural monitoring and archiving methods; biological avoidance and impact minimization techniques; drainage protection and erosion control; dust abatement during construction and others. These detailed plans have been prepared for scores of projects and should serve as ideal templates for the development of BMP Guidelines quickly. Once this guidance is given, developers who commit to these BMPs should be fast-tracked. The environmental evaluation for projects that comply with these BMPs should tailor the environmental analysis to those impacts that may occur with the BMPs in place. We believe that this should shorten the review time, as many of the potential environmental impacts would be mitigated by incorporation of these BMPs into the project.

Mitigation Requirements

Large renewable projects will occupy large tracts of land and will be seen. However, these two facts alone should not mean that a project will not provide environmental benefits or that it should not be permitted. We understand and support the development of the Desert Renewable Energy Conservation Plan (DRECP). We believe the DRECP will provide a comprehensive strategy and the guidance necessary to bring certainty to the permitting process from a biological resources perspective. We foresee that such a plan will move away from application of strict mitigation ratios, and instead implement a desert wide conservation strategy that should incorporate public lands for mitigation. However, for projects that will be processed prior to finalization of the DRECP, applicants simply do not know and cannot predict what biological mitigation might cost or how it can be accomplished. Mitigation ratios as high as 5 to 1 have been discussed in recent projects, which is not only economically infeasible but, in many instances, logistically impossible. There simply is not enough land to be acquired if such ration methodology continues to be routinely employed. Other methods of evaluation and mitigation must be explored if we hope to develop renewable projects. The quality of habitat should be a factor in developing protocols and mitigation methods. Conducting expensive surveys in low-quality habitat could be avoided.

As renewable energy is a key to addressing climate change, any analysis of biological impacts should address the question of what impacts to biological resources would occur if we fail to develop renewable energy resources. For example, if renewable energy is not developed, and climate change not curtailed, the biological diversity of the desert may be negatively affected on a larger scale. Additional study should be conducted in this area and reflected in the agencies' ultimate decisions.

Tradeoffs

As applicants strive to reduce all impacts of projects to less than significant levels, for some projects this may not be possible. In such circumstances, agency management and decision makers must be able to make tradeoffs. Guidance must be clear in order for utilities to select projects that can be permitted, constructed and relied upon to meet renewable goals. While it is unpopular to discuss the necessity of tradeoffs, clear guidelines should be developed concerning under what circumstances and for what types of impacts a statement of overriding consideration would be appropriate.

Transmission

One of the most difficult hurdles to development of renewable energy in the state is the need for additional transmission infrastructure. Permitting a transmission line is cumbersome, time-consuming and often controversial. However, if the CEC were to begin designating transmission corridors now so that the environmental review process can be undertaken, it is possible that new lines could be permitted and constructed in time to deliver the renewable energy from the many projects proposed. We believe that the CEC should begin to designate transmission corridors under its SB 1039 regulatory authority as soon as possible. We also believe that (a) the environmental review conducted by the CEC should be expedited, and at a programmatic level, in recognition of the fact that detailed environmental review will take place later at the project siting state, or (b) the existing process should be changed to require the California Public Utility Commission (CPUC) or other siting authority to approve projects proposed within the CEC designated corridor without a second round of CEQA review. Permits for transmission to interconnect or deliver renewable power should be afforded all of the same expedited treatment from agencies as the generation projects themselves.

Respectfully submitted,



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