

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

DOCKET

08-WHCE-1

DATE JAN 27 2010

RECD. FEB 10 2010

Rulemaking on Implementation of the Waste Heat and Carbon Emissions Reduction Act)
Docket No. 08-WHCE-1
Order Number 10-0127-18

ORDER ADOPTING GUIDELINES

I. INTRODUCTION

The California Energy Commission hereby adopts the Committee Final Guidelines for Certification of Combined Heat and Power Systems (the Guidelines), according to the Waste Heat and Carbon Emissions Act (the Act), which is codified in Public Utilities Code section 2840, et seq., as enacted in California Assembly Bill (AB) 1613 (Blakeslee, Chapter 713, Statutes of 2007) and amended in AB 2791 (Blakeslee, Chapter 253, Statutes of 2008).

The Act requires the Energy Commission to adopt guidelines that require combined heat and power systems be designed to reduce waste energy, be sized to meet the eligible customer-generator's thermal load; operate continuously in a manner that meets the expected thermal load and optimizes the efficient use of waste heat; and are cost effective, technologically feasible, and environmentally beneficial. The Act also exempts these guidelines from the requirements of the California Administrative Procedure Act.¹

On December 17, 2008, the Energy Commission issued an Order Instituting Rulemaking (OIR), beginning a rulemaking proceeding to implement the Act's provisions.² The OIR set forth the purpose of the proceeding and the scope of the Act, and delegated authority to preside over the proceeding to the Energy Commission's Electricity and Natural Gas Committee (the Committee).

On April 13, 2009, the Committee held a public workshop to discuss the development of the Guidelines.

On July 22, 2009, Energy Commission staff (staff) released to the public Draft Guidelines³, and received comments from interested parties on the Draft Guidelines.

On October 1, 2009, staff published revised Draft Guidelines.⁴ A public workshop to discuss the revised Draft Guidelines was held by the Committee on October 12, 2009.

¹ Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the California Government Code.

² Energy Commission Order No. 08-1217-16 (www.energy.ca.gov/wasteheat/documents/2008-12-17_ORDER.PDF)

³ CEC-200-2009-016-D (www.energy.ca.gov/2009publications/CEC-200-2009-016/CEC-200-2009-016-D.PDF)

On November 25, 2009, the Committee published the Committee Proposed Guidelines⁵, as well as a Notice of Proposed Action⁶ and Initial Statement of Reasons.⁷ The public hearing for consideration of public comments and adoption of the Committee Proposed Guidelines was scheduled for January 13, 2010. The Energy Commission accepted written comments on the Committee Proposed Guidelines from November 25, 2009 to December 28, 2009.

On December 28, 2009, the Chairman of the Energy Commission issued an Order of Continuance⁸, continuing the January 13, 2010 adoption hearing to January 27, 2010.

Based on the written comments received, substantive changes were made to the Committee Proposed Guidelines, which resulted in publication of the Committee Final Guidelines on January 13, 2010.⁹ On the same day, a Notice of Availability and Opportunity for Comment¹⁰ was published, giving interested parties the opportunity to file comments on the Committee Final Guidelines from that day until January 25, 2010. A public hearing to consider adoption of the Committee Final Guidelines remained as previously scheduled for January 27, 2010.

None of the comments received after publication of the Committee Final Guidelines published on January 13, 2010, and nothing else in the record, justified any changes to those Committee Final Guidelines.

II. FINDINGS

Based on the entire record for Docket No. 08-WHCE-1, the Energy Commission finds as follows:

- A. Public Utilities Code section 2843(a). The adopted Guidelines require combined heat and power systems to meet, and will accomplish all of the following:
- (1) reduce waste energy;
 - (2) be sized to meet the eligible customer-generator's thermal load;
 - (3) operate continuously in a manner that meets the expected thermal load; and

⁴ CEC-200-2009-016-SD (www.energy.ca.gov/2009publications/CEC-200-2009-016/CEC-200-2009-016-SD.PDF)

⁵ CEC-200-2009-016-CTD (www.energy.ca.gov/2009publications/CEC-200-2009-016/CEC-200-2009-016-CTD.PD)

⁶ [www.energy.ca.gov/wasteheat/notices/2010-01-13 NOTICE ADOPTION.PDF](http://www.energy.ca.gov/wasteheat/notices/2010-01-13_NOTICE_ADOPTION.PDF)

⁷ CEC-200-2009-020-D (www.energy.ca.gov/2009publications/CEC-200-2009-020/CEC-200-2009-020-D.PDF)

⁸ [www.energy.ca.gov/wasteheat/notices/2009-12-29 Order of Continuance TN-54609.pdf](http://www.energy.ca.gov/wasteheat/notices/2009-12-29_Order_of_Continuance_TN-54609.pdf)

⁹ CEC-200-2009-016-CTF (www.energy.ca.gov/2009publications/CEC-200-2009-016/CEC-200-2009-016-CTF.PDF)

¹⁰ [www.energy.ca.gov/wasteheat/notices/2010-01-27 Notice of Availability Proposed Guidelines.pdf](http://www.energy.ca.gov/wasteheat/notices/2010-01-27_Notice_of_Availability_Proposed_Guidelines.pdf)

- (4) are cost effective, technologically feasible, and environmentally beneficial.

B. Public Utilities Code section 2843(c). The Guidelines have been adopted:

- (1) pursuant to a publicly noticed adoption hearing, offering all interested parties an opportunity to comment;
- (2) with at least 30 days' public notice given of said adoption hearing; and
- (3) with at least 10 days' notice given of substantive changes to the Guidelines prior to the adoption hearing.

III. ADOPTION OF PROPOSED GUIDELINES FOR DOCKET 08-WHCE-1

The Energy Commission, after considering the entire record, hereby adopts the Committee Final Guidelines as published on January 13, 2010.

IV. CONTINUATION OF DELEGATION OF AUTHORITY TO THE COMMITTEE

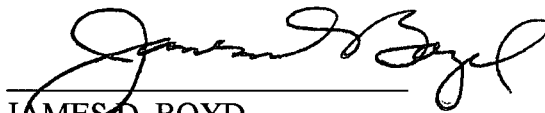
The Energy Commission continues in effect its delegation to the Committee the authority to take, on behalf of the Energy Commission, all actions necessary and appropriate to comply with all applicable legal requirements, including but not limited to the Warren-Alquist Act, the Public Utilities Code, the California Environmental Quality Act, and the Act itself. This delegation also includes the authority to make future changes and revisions, substantive and non-substantive, to the Guidelines.

January 27, 2010

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION



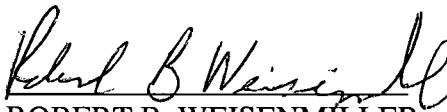
KAREN DOUGLAS
Chairman



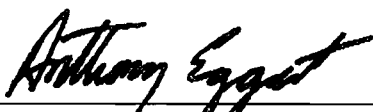
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