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**State of California
California Energy Commission**

In the Matter of:	Docket No. 11-IEP-1A
Preparation of the 2011 Integrated Energy Policy Report (2011 IEPR).	Draft 2011 IEPR

**Comments of GenOn Energy, Inc. on
Lead Commissioner Draft 2011 Integrated Energy Policy Report****I. INTRODUCTION.**

Pursuant to notice issued by the Commission on December 5, 2011, GenOn Energy, Inc. ("GenOn") provides the following comments on the draft 2011 Integrated Energy Policy Report ("Draft IEPR"). These comments focus on three topics raised in the Draft IEPR: (1) the need for new gas-fired resources, particularly in light of the pending retirement of facilities relying on once-through cooling ("OTC"); (2) the development of new water policies in connection with the siting of new power plants; and (3) the possible creation of a formal inter-agency mechanism for consideration of energy policy.

II. THE DRAFT IEPR APPROPRIATELY CONCLUDES THAT PROCUREMENT OF NEW NATURAL GAS-FIRED RESOURCES TO MAINTAIN SYSTEM RELIABILITY SHOULD OCCUR AS SOON AS POSSIBLE.

In several places, the Draft IEPR correctly notes that natural gas-fired resources will play an important role as California transitions to an energy future where at least 33% of the electricity consumed is produced from renewable resources.¹ On Page 115, the Draft IEPR acknowledges the work the California Independent System Operator

¹ See, e.g., Draft IEPR, pp. 11, 85-86, 112.

("CAISO") has undertaken in the 2011/12 Transmission Planning Process to understand the impacts associated with the retirement of OTC facilities, but the results of that analysis were not available when the Draft IEPR was published. With the release of that analysis on December 6th, the Commission could update the Draft IEPR to reflect the conclusion that there will be local areas requiring new gas-fired generation once OTC facilities in those areas retire.

Notwithstanding the Draft IEPR's correct determinations that new gas-fired generation will be required, the Draft IEPR should be corrected to remedy a possible misperception about the time required to permit natural gas-fired power plants. On Page 86, the Draft IEPR states that gas-fired plants have a "... relatively short lead time for licensing." In fact, recent licensing of new natural gas-fired power plants has taken two years and longer.² Furthermore, with the recent amendment of the U.S. EPA's regulations to include greenhouse gases in the Prevention of Significant Deterioration ("PSD") permit framework,³ every new natural gas-fired power plant will now have to obtain a PSD permit. Because of appellate rights and automatic stays associated with the PSD permit process, GenOn believes that an additional year will be routinely added to the permitting process, suggesting a minimum of three years for permitting should be expected. When combined with contracting and construction, it will take at least seven years to see a new power plant move from conception to commercial operation. This conclusion is consistent with the Draft IEPR's later determination on Page 118 that the, "... timeframe emphasizes that decisions need to be made soon if major new generation projects are to be operational by 2020."

Given the stated need for new natural gas-fired plants and the relatively long lead-time to place such plants in service, the Draft IEPR appropriately identifies the need for policymakers to move forward as soon as possible to authorize the procurement of new facilities necessary to ensure grid reliability in 2020.

² See, e.g., Oakley Generating Station Power Plant Licensing Case, CEC Website at the following link: <http://www.energy.ca.gov/sitingcases/oakley/index.html> (the application for certification was filed on June 30, 2009, and the final CEC decision approving the project was issued on May 18, 2011).

³ See 75 Fed. Reg. 31514 (June 3, 2010), U.S. EPA Docket No. EPA-HQ-OAR-2009-0517, Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule.

III. THE COMMISSION SHOULD LIMIT THE SCOPE OF ANY PROPOSED MODIFICATION OF ITS WATER POLICY STATEMENT.

In Chapter Five, under the heading, “Siting Policy,” the Draft IEPR proposes a wholesale review of its policies addressing the use of water for the operation of power plants subject to its permitting jurisdiction. GenOn believes that the scope of this review should be limited in two ways.

First, the Draft IEPR provides very little rationale for re-opening its water policy for the entire state. The primary motive for the re-examination of the policy stems from a proliferation of solar projects in the desert where, “[m]any desert groundwater basins are not managed in accordance with a groundwater management plan . . .”⁴ However, the siting and development of a new generation resource must take into consideration many factors in addition to water use, such as the needs of the electric grid and electric service providers, the operating characteristics of available technologies, air quality, noise, visual impacts, economics and many more. An overly-prescriptive water policy could force the selection of project sites and configurations which do not constitute the overall best selection. In fact, GenOn contends that the Commission’s existing water policy affords reasonable flexibility to consider the use of water by new power plants and thereby accommodate the myriad siting issues associated with such plants. Given these concerns and to the extent the Commission believes the desert presents more challenging issues for water usage, any future review of the Commission’s water policy should be limited to the unique issues presented in the desert.

Second, the Draft IEPR lists options for consideration in the proposed re-assessment of the Commission’s water policy.⁵ Those options contain some sweeping, overly broad proposals, such as a mandate to use dry cooling “universally,” a proscription against any water use that “impacts” the Delta or Colorado River water supplies, and an unequivocal declaration that any water that is deep in an aquifer cannot be used for power plant purposes.⁶ GenOn is concerned that, as presented in the Draft IEPR, these proposals will be construed to have the implicit approval of the Commission, without having been vetted through an adequate administrative process or representing any stakeholder input. These proposals implicate complex environmental and legal issues, such as groundwater management and surface water use in the Delta

⁴ Draft IEPR, pg. 83.

⁵ Draft IEPR, pp. 83-84.

⁶ Id.

and Colorado River systems, which are regulated by numerous federal, state and local agencies.

To remove this concern, GenOn urges the Commission to delete the list of possible options from the final IEPR document and allow a follow-on stakeholder process, if one is to occur, to identify the range of reasonable options to consider for updating the Commission's water policy. If the Commission is unwilling to make this preferred modification to the Draft IEPR, then GenOn recommends that, at a minimum, the Commission should add the following caveat to the sentence introducing the list of possible options to update its water policy: "Without pre-judging the merits of any particular proposal, the following options are for the Siting and IEPR Committees to may consider the following options for helping improve the power plant licensing process in relation to water consumption:".

IV. ANY INTERAGENCY MECHANISM TO COORDINATE AGENCY DECISIONS MUST NOT SACRIFICE THE TRANSPARENCY REFLECTED IN CURRENT DECISION MAKING.

On Page 118, the Draft IEPR recommends that "A new interagency mechanism should be developed to coordinate broader policy decisions that are inappropriate to the more narrow focus of a single agency."

GenOn certainly supports active participation among the various energy agencies when a decision must be made. For example, the CAISO is an active party in the CPUC's Long Term Procurement Planning ("LTPP") docket. Therefore, it may be appropriate for the energy agencies to explore ways to ensure their decisions establish consistent policies within California.

However, any such mechanism should not circumvent open meeting laws or diminish the transparency in decision making afforded in the current environment. Extending the CAISO example cited above, as a party to a CPUC proceeding, the CAISO made its policy recommendations regarding long-term procurement known to the CPUC by preparing testimony and opening its witness to cross examination. It would short circuit the CPUC's decision making process if any new formal or informal mechanism allowed the same information to be conveyed to CPUC decision makers without full

disclosure to all stakeholders. Accordingly, while agency coordination and cooperation is a laudable goal, it should not come at the expense of transparency.

V. CONCLUSION.

Based on the foregoing, GenOn recommends that the Commission revise the Draft IEP prior to its adoption consistent with the concerns raised in these comments.

Dated this 22nd day of December, 2011, at Pittsburg, California.

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