



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV

*IN THE MATTER OF COMPLAINT AGAINST  
ORMAT NEVADA, INC. BROUGHT BY  
CALIFORNIA UNIONS FOR RELIABLE ENERGY*

Docket No. 11-CAI-02

Attached is the Memo dated May 20, 1986, from William M. Chamberlain and is referred to in the Declaration of Terrence O'Brien, Paragraph No. 6, as part of Staff's case.

**DOCKET**

**11-CAI-02**

DATE MAY 20 1986

RECD. SEP 14 2011

# Memorandum

To : Commissioners  
Executive Office

Date : May 20, 1986

Telephone: ATSS ( )  
( )

From : California Energy Commission -- WILLIAM M. CHAMBERLAIN *WMC*  
1516 Ninth Street  
Sacramento 95814  
General Counsel

Subject: Commission Jurisdiction Over Kern Island Cogeneration Project

## INTRODUCTION

This matter involves a request by three companies through their common agent for a determination whether construction of three identical 42 MW gas-fired generators for the purpose of providing steam to a chemical processing plant and electricity for sale to Pacific Gas and Electric Company is within the jurisdiction of the Energy Commission as a 126 MW cogeneration project or whether the fact that each of the generators and the chemical processing plant are all separately owned causes the project to be three projects, each below the 50 MW jurisdictional limit. At issue is the proper interpretation of the term "thermal powerplant" as that is defined in Public Resources Code § 25120 and the extent of the Commission's jurisdiction to interpret that term where an ambiguity exists.

I conclude that the Commission may properly interpret the term "thermal powerplant" as used in the Warren-Alquist Act to include cogeneration projects that are linked together by the common purpose of providing steam to an industrial facility regardless of the fact that each separately owned individual components of the project, if viewed in isolation, would not be a "thermal powerplant" as defined in the statute.

## FACTUAL BACKGROUND

In a letter dated September 9, 1985, Southeast Energy, Inc., asked the Commission for a "statement of exemption" for a 42 megawatt cogeneration plant planned for construction on property adjacent to White Lane in Bakersfield, California. On September 12, 1986, Moran Power, Inc. wrote the Commission requesting a "statement of exemption" for an identical 42 megawatt cogeneration plant to be constructed on property immediately adjacent to the property proposed by Southeast Energy, Inc, for its 42 megawatt plant. On September 17, 1986, Kern Energy Corporation sent a similar request for a "letter of exemption" for a third 42

megawatt cogeneration plant to be constructed immediately adjacent to the proposed Kern Energy plant.<sup>1</sup> Each company's request was premised on the fact that its respective 42 megawatt plant was below 50 megawatts, the threshold for Energy Commission siting permit jurisdiction.<sup>2</sup>

The Commission placed the matter on its agenda for its regular business meeting of April 2, 1986, in order to consider whether the proposed cogeneration units constituted a facility subject to the Commission's exclusive siting permit authority pursuant to Public Resources Code section 25500. Representatives from Wastener Corporation, the designated common agent for the three cogeneration companies, and counsel for the three companies appeared and presented information and arguments.<sup>3</sup> They represented that Wastener had an initial requirement of no less than 60,000 pounds per hour of steam for the proposed chemical processing facility and that each cogeneration unit could produce no more than 50,000 pounds per hour of steam. They indicated that Wastener had therefore concluded that the project required three 42 MW generators in order to provide needed redundancy to ensure the continual provision of at least 60,000 pounds per hour of steam. The three generators would normally each produce 20,000 pounds per hour of steam and 42 MW of electricity when all were operating. If one machine was down for scheduled or unscheduled maintenance, the other two machines would be capable of providing the required 60,000 pounds per hour of steam, presumably at some cost to their electricity production. The details of how the coordination of the three units with the needs of the chemical processing facility would be handled were not presented.<sup>4</sup>

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<sup>1</sup> The letter from Southeast Energy, Inc. defined the power plant site as a plot in Section 16, T 30 S, R 28 E, MBDM, off White Lane and 3/8 of a mile east of Cottonwood Road. There are essentially identical descriptions in the letters from Kern Energy Corporation and Moran Power, Inc. for their respective cogeneration units.

<sup>2</sup> Public Resources Code sections 25500, 25110, 25120.

<sup>3</sup> Since Wastener has presented all information and argument on behalf of the three cogeneration companies, the remainder of this opinion refers to all of the entities collectively as "Wastener."

<sup>4</sup> It is not clear from the record whether a clearly defined agreement covering all aspects of the sale of steam to Wastener now exists. At the April 2 hearing, in response to questions relating to how the facilities would be coordinated, the representatives of Wastener indicated that a letter of intent had been signed calling in general for "pro rata" sharing of the sale of

It also appeared that each of the generation units was planned to have its own substation to connect with the utility system. In response to questions from Chairman Imbrecht and Commissioner Crowley why it was not possible, and economically more desirable, to construct just one substation with separate metering of the three facilities' electricity production, the representatives of Wastener indicated that the owners of each unit wanted a completely self-contained facility, but they presented no operational reason requiring this more expensive configuration.

Based on the information presented at the April 2 business meeting, the Commission issued an Order to Show Cause "why the Commission should not deny the Companies' requests for statements or letters of exemption, on the ground that the three cogeneration units described in [the] order constitute a single electrical generation facility subject to the Commission's exclusive siting permit authority pursuant to section 25500 of the Public Resources Code." In the Order to Show Cause, the Commission made the following preliminary findings of fact based on the April 2 presentations:

#### FINDINGS:

1. A cogeneration project consisting of at least 3 identical 42-megawatt cogeneration units was conceived and planned by individuals from Wastener Corporation as early as December, 1984.
2. The three cogeneration companies did not exist at the time when the three unit project was originally conceived and planned.
3. The number and size of the cogeneration units was determined by Wastener Corporation after considering, among other factors, projected steam loads of a proposed chemical processing facility to be constructed on an adjoining parcel.

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required steam to Wastener from the three cogeneration companies, but detailed agreements setting forth the rights and obligations of each company under various operating conditions apparently have not yet been signed. Wastener's claim that the companies are separately operating their facilities, subject to no common control by Wastener or any other common operator is therefore subject to question. The implication left by the representatives of Wastener was that everything would be governed by contract and that under those contracts, economic self-interest would provide the necessary coordination of the individual parts of the project.

4. The project proponents determined in late 1984 that separate 42 megawatt plants, individually owned by separate companies, might be regarded as separate air pollution "sources," and thus entitled to less stringent air quality regulations than a combined three unit, 126 megawatt, project.

5. On or about July 1985, the project developers arranged to have the three cogeneration companies incorporated in California for the apparent purpose of securing the favorable air quality regulation possible for three separate "sources."

6. On or about September 1985, each company filed a separate application with the Kern County Air Pollution Control District for an "authority to construct" one of the three planned cogeneration units.

7. The three cogeneration units were planned for immediately adjacent parcels and were intended to provide steam to one or more common steam customers.

8. The developers envisioned a degree of coordinated operation among the three units in order to provide reliable and adequate steam supplies to the planned and potential steam customers.

In response to the Order to Show Cause, Wastener did not directly dispute any of these findings, but instead presented extensive documentation of the fact that the three companies which have been created to construct and operate the three 42 MW generators are not commonly owned by any other corporation, individual, or group of individuals, but are rather separately owned by three individuals who have agreed to participate in the overall project planned by Wastener by constructing the generation facilities according to Wastener's plan and then by selling steam to Wastener for use in the proposed chemical processing facility.<sup>5</sup>

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<sup>5</sup> Based on this showing, I conclude that the issue in this case is not whether the three cogeneration companies are "shell corporations" or not. Whether they are adequately capitalized, and other factors that might be relevant to whether they should protect their stockholders from civil liability, are irrelevant here because if the Commission did decide it is appropriate to "pierce the corporate veil," there would still apparently be three separately owned generation units--separately owned by individuals rather than corporations. The issue, therefore, is whether this separate ownership, corporate or otherwise, prevents the Commission from properly concluding that the entire cogeneration project is a "thermal powerplant" subject to its siting jurisdiction.

## ANALYSIS

### I. THE COMMISSION HAS THE POWER TO DETERMINE ITS JURISDICTION OVER THE PROJECT.

It is clear that an administrative agency has the power to determine its own jurisdiction. (Goldin v. Public Utilities Commission (1979) 23 Cal.3d 638, 153 Cal.Rptr. 802.) When jurisdiction depends on the existence or nonexistence of certain facts, the agency may determine whether or not those facts exist. (Palermo Land & Water Co. v. Railroad Comm'n (1916) 173 Cal. 380, 385, 160 P. 288.)

### II. THE KERN ISLAND PROJECT IS A "THERMAL POWERPLANT" SUBJECT TO THE COMMISSION'S JURISDICTION.

The Energy Commission has jurisdiction over "sites and related facilities." (Public Resources Code, § 25500.)<sup>6</sup> A "facility" includes a "thermal powerplant" (§ 25110), which is further defined in relevant part as "any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more . . ." (§ 25120.) Therefore, if the three units of the Kern Island Project taken together constitute a "thermal powerplant," the Commission has jurisdiction over the project as a whole. To determine if the Kern Island Project is such a "thermal powerplant," one must first attempt to define or interpret that term, and then assess whether the interpretation applies to this project.

Neither the Warren-Alquist Act nor the Commission's regulations further define "thermal powerplant" or state expressly how the term is to be applied to multi-unit projects. Thus, the term must be interpreted and applied using the ordinary rules of statutory construction.

#### A. The Phrase "Thermal Powerplant" in Section 25120 Must Be Interpreted to Carry Out The Legislative Intent and Purposes of the Warren-Alquist Act.

The object of statutory interpretation is to ascertain the legislative intent so that the purpose of the law may be effectuated. (Select Base Materials, Inc. v. Board of Equalization (1959) 51 Cal.2d 640, 645, 80 Cal.Rptr. 89, 335 P.2d 672.) The search for that intent begins with the examination of the plain meaning of the statutory language. (People v. Knowles (1950) 35 Cal.2d 175, 182, 217 P.2d 1, cert. den. 340 U.S. 879.) If the

<sup>6</sup> All section references are to the Public Resources Code, unless otherwise noted.

language is ambiguous, however, the analysis proceeds to review other indications of legislation intent, such as legislative history, the purposes sought to be accomplished and the problems sought to be remedied by the statute, public policy, and contemporaneous administrative construction.<sup>7</sup> (English v. County of Alameda (1977) 70 Cal.App.3d 226, 233-234, 138 Cal.Rptr. 634.) Judicial interpretation of other statutes that are similar in wording and purpose to the statute in question may also be used as guidance. (Agricultural Labor Relations Bd. v. Superior Court (1976) 16 Cal.3d 392, 404, 126 Cal.Rptr. 183, 546 P.2d 687.)

In this case, the Commission must try to determine what the Legislature meant by the term "thermal powerplant" when applied to a project that includes more than one generation machine, where each machine by itself is under 50 MW, but where all the machines taken together are more than 50 MW. In particular, the Commission must focus on whether it is likely that the Legislature would have intended that separate ownership of the different machines should make a difference. Unfortunately, there appears to be no relevant legislative history to shed any light on the problem,<sup>8</sup> nor is there any contemporaneous construction of the statute by the Commission in its regulations. Nevertheless, there are several indicia within the Warren-Alquist Act itself that strongly suggest that such facilities should be viewed as an integrated whole rather than as separate generators.

The Commission's duty, under these circumstances, is to interpret and apply the term "thermal powerplant" in a manner that best carries out the purpose of the Act as revealed by these various indicia of legislative intent. Significantly, the Act itself commands that its provisions "specifying any power or duty of the commission shall be liberally construed, in order to carry out the objectives of [the Act]." (§ 25218.5.) Construction of the term "thermal powerplant" is subject to this provision because it is an integral part of § 25500, which specifies the Commission's power facility siting powers and duties.

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<sup>7</sup> Other indicia of legislative intent may be considered even if the statutory language is unambiguous. (American Friends Service Committee v. Proconier (1973) 33 Cal.App.3d 252, 261, 109 Cal.Rptr. 22.)

<sup>8</sup> There is nothing in the Warren Committee hearings that discusses the 50-MW threshold or the question of multiple-unit projects. Nor do the predecessor bills to AB 1575, nor the amendments to AB 1575, cast any light on the subject. (The oldest predecessor, SB 1310 (introduced March 15, 1972 by Alquist, Gregorio, and Mills), defines "thermal powerplant" in exactly the same language as the first sentence of the current § 25120.)

**B. To Carry Out The Purposes of The Act,  
"Thermal Powerplant" Must Be Interpreted to  
Include Closely Related Generating Units That  
Will Simultaneously Affect Environmental  
Quality, The Need for Power or Other State-  
wide Interests.**

Several key objectives of the Warren-Alquist Act indicate that the term "thermal powerplant" includes closely related and coordinated multiple-unit projects, and that the Kern Island Project should be considered such a facility. The Legislature has declared that it is the responsibility of state government to ensure a reliable and adequate supply of electrical energy for the state at the lowest economic and environmental cost. (§ 25001; see also §§ 25002, 25005, 25007, 25500, 25500.5, 25523(f), 25524.) The Legislature created the Commission to "establish and consolidate" that responsibility in one agency; in carrying out this duty the Commission examines the effects of powerplant proposals on air and water quality, other environmental resources, health and safety, and the economic well-being of ratepayers, and compares the merits of proposals with other alternatives. (See generally §§ 21000 et seq., 25500 et seq.).

The 50-megawatt jurisdictional threshold indicates the Legislature's presumption that all projects of that size or larger will affect those state interests.<sup>9</sup> Therefore, when it is unclear whether a power project is 50 megawatts or more in size, and thus whether it is a "thermal powerplant," the Commission should assess whether the project is likely to have an impact on one or more of the state interests the Act was designed to protect.

Projects that include two or more generators that are under 50 MW which, taken together, produce more than 50 MW, have a similar level of impact on the environment, the economy, and the state's electricity supply as projects that use larger equipment to produce the same amount of electricity. If the Commission were to conclude that divided ownership of the individual generators within an integrated project permits the proponents of the project to avoid Commission review of the project, then substantial harm could be done to the purposes and objectives of the Act as described above. Such an interpretation would certainly not be the liberal construction of the Commission's powers and duties which is called for in § 25218.5. Under this inter-

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<sup>9</sup> Proponents of projects between 50 and 100 megawatts may rebut this presumption and thereby be relieved of the requirement for a CEC certificate, but only if the Commission finds that there will be no significant adverse environmental impacts and that there is no substantial issue as to the need for the project -- that is, that state interests will not be affected. (§ 25541.)

pretation, projects representing hundreds, or even thousands, of megawatts of generation could be installed without the CEC's statewide review of environmental and economic factors as required by the Warren-Alquist Act and without any review of the need for such facilities, if future cogeneration installations are designed as a series of separately owned machines, each of which generates less than 50 MW. To the extent that it may at some point in the future appear to project developers that this has become the only way to bring a project on line, this type of design could become very common.

Division of ownership of individual parts of an integrated project has little, if any, effect on the environmental and economic factors the Legislature charged the Commission with examining and protecting. Therefore, there is no particular rationale for distinguishing between (1) a project consisting of several coordinated "under 50 MW" generators which belong to the same entity or person and (2) the same project in which the ownership of those machines has been divided. For these reasons, I conclude that the Commission must look more to the objective and functional factors<sup>10</sup> which suggest that one or more generators should or should not be considered as an integrated project and less to factors that can be manipulated in order to achieve a result that seems at odds with the overall purposes of the Warren-Alquist Act. Ultimately all relevant factors should be considered in each case, but those that are not easily modified to achieve a jurisdictional result should be given more weight.

C. The Kern Island Units Are So Closely Related That They Constitute One "Thermal Powerplant"

In a memo to you from John Chandley, dated March 31, 1986, my office stated its belief that the Commission has jurisdiction over the Kern Island Project. After further consideration of the principles of statutory construction discussed above, and the important objectives of the Warren-Alquist Act affected by this decision, I reaffirm our previous conclusion:

In the opinion of the General Counsel's Office, the three-unit, 126 megawatt project conceived and planned

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<sup>10</sup> Such factors would include physical proximity of the generation facilities, the extent to which they are planned and operated as a coordinated larger project, and the extent to which they do or could reasonably share common facilities. Common ownership and the timing of construction schedules of the different generation facilities should also be considered, but neither of these factors should be determinative in and of itself.

by Wastener Corporation appears to be precisely the type of larger project that the Legislature intended to place within the Commission's siting jurisdiction. Taken together, this project may have significant effects on the environment, particularly on the quality of air in the surrounding area. And the addition of 126 megawatts of electrical generation to the PG&E service area could have economic effects on PG&E for which PG&E ratepayers could hardly be indifferent.<sup>11</sup>

The fact that this project has been conceived and developed as an integrated whole is readily apparent from the history of the project, from the explanation of how the three unit configuration was chosen, and from repeated references during Commission hearings by the representatives of Wastener itself to "the project." The three units in this project will be built simultaneously. They will probably be managed by one entity, or perhaps by a group of persons following a contractually specified plan for coordination of the operation.<sup>12</sup> Each of the three units is necessary to provide a reliable and continuous supply of steam to the one currently identified industrial customer.<sup>13</sup> Coordinated maintenance of the units is also required to provide reliable and continuous steam. The units will be of identical design. The sites are contiguous. Three individual substations give an appearance of individual character to the generators, but there appears to be no physical or operational reason that these separate facilities are required. The project therefore looks and acts like one facility. If one utility or one third party proposed these units, there would be no question that they

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<sup>11</sup> In the recent IBM SPPE case, the Commission noted that the addition of the 65 megawatt IBM facility could result in an annual loss to PG&E of several million dollars, because of the over supply of baseload resources in the PG&E planning area.

<sup>12</sup> Even if such an arrangement is devised, it would almost certainly have to include a mechanism for resolving disputes and an agreement that pending such resolution, Wastener, or some other party would have the right to control the operation of the facilities to avoid serious damage to one or more of the project participants.

<sup>13</sup> The representatives of Wastener alluded to the possibility that further requirements for steam from these and possibly additional cogeneration units might occur at some point in the future as the enterprise zone is developed. While this fact is not necessary to conclude that these facilities should be viewed as an integrated project, it does suggest that the environmental and economic impacts involved may be even greater and more significant from a statewide perspective than it presently appears they will be.

constituted one "thermal powerplant." The principal reason the ownership of the facilities was divided appears to be Wastener's conclusion in the early development of the project that division of ownership might allow the project to avoid new source review under the air quality laws and thereby to avoid the need to obtain offsets for the pollution emitted by the project.<sup>14</sup>

Under these circumstances, the Commission has ample reason for concluding that the three generation units contained within Wastener's plan to construct a cogeneration complex at Kern Island are a single "thermal powerplant" within the meaning of the Warren-Alquist Act.

D. The Interpretation Recommended Above is Consistent with Judicial Precedent Interpreting The California Environmental Quality Act

A similar problem of interpretation arose shortly after the enactment of the California Environmental Quality Act (CEQA), Public Resources Code § 21000 et seq., regarding the meaning of the term "project." In that case, the courts broadly construed the ambiguous term because that construction best carried out the apparent legislative purpose of CEQA to protect the environment. The California Supreme Court, finding little help in dictionary definitions of the term "project," instead relied heavily upon the general indications of Legislative intent found in the overall purposes of the statute itself:

[W]e resort to the rule declared in *People ex rel. San Francisco Bay, etc., Comm. v. Town of Emeryville* (1968) 69 Cal.2d 533, 543-544, 72 Cal.Rptr. 790, 796, 446 P.2d

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<sup>14</sup> Even the efficacy of this strategy is apparently in question given the April 18, 1986 letter from EPA to the Kern County Air Pollution Control District which states:

EPA is concerned that the cogeneration facilities undergoing permit review by the District, associated with the Kern Island Processors and Westener (sic), may have been inappropriately considered separate sources. EPA would consider such facilities as a single source under the terms of the Kern New Source Review rule and the provisions of federal regulations if the facilities were once under common ownership, are under essentially common control and operation, or are functionally dependent and integrated. Segmentation of a source by the establishment of separate ownership in order to reduce project size below rule applicability thresholds (sic) represents an impermissible evasion of the federally approved NSR program.

790, 796. A principle "which must be applied in analyzing the legislative usage of the word 'project,' is that 'the objective sought to be achieved by a statute as well as the evil to be prevented is of prime consideration in [the word's] interpretation, and where a word of common usage has more than one meaning, the one which will best attain the purpose of the statute should be adopted, even though the ordinary meaning of the word is enlarged or restricted and especially in order to avoid absurdity or to prevent injustice.'" Friends of Mammoth v. Board of Supervisors of Mono County (1972) 8 Cal.3d 247, 260, 104 Cal.Rptr. 761, 769.

Based on this interpretation, the courts have also required that environmental impact reports for projects consider the cumulative impacts of the entire project, and have emphasized that the requirement of adequate environmental study under CEQA "cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial." Plan for Arcadia, Inc. v. Arcadia City Council (1974) 42 Cal.App. 3d 712, 726, 117 Cal.Rptr. 96, 105. See also Coastal S.W. Development Corp. v. California Coastal Zone Conservation Commission (1976) 55 Cal.App.3d 525, 537, 127 Cal.Rptr. 775, 781. The Energy Commission's power facility site certification program is a functional equivalent of the environmental impact report required by CEQA [Title 14, California Administrative Code, § 15251(k)], and many of the same policies underlie both enactments. Just as "projects" under CEQA cannot be artificially divided to avoid the environmental scrutiny the Legislature intended to require in CEQA, "thermal powerplants" under the Warren-Alquist Act should not be artificially divided in a way that avoids the statewide review of environmental and economic factors for projects that produce impacts of statewide significance which the Legislature provided in Warren-Alquist.

#### CONCLUSION

The Energy Commission has jurisdiction to make the necessary factual determinations supporting its jurisdiction, and is also appropriately the agency which should initially interpret its enabling legislation where it is ambiguous. In this case, the facts appear to be essentially undisputed, though the Commission may wish to consider giving Wastener the opportunity to have a further hearing if it decides that any of the facts as stated in

this opinion are incorrect.<sup>15</sup> If the facts as stated herein are undisputed, then it is my recommendation that the Commission has ample reason to conclude that the three cogeneration units planned by Wastener as part of the Kern Island cogeneration project constitute a "thermal powerplant" within the meaning of Public Resources Code § 25120 notwithstanding the separate ownership of the three units. The requests for a letter or statement of exemption from the Commission's certification jurisdiction should therefore be denied.

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<sup>15</sup> Such a hearing, if held, would also provide the staff an opportunity to clarify some of the presently uncertain issues which may be relevant to, but not essential to, the Commission's decision.



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ORMAT NEVADA, INC. BROUGHT BY  
CALIFORNIA UNIONS FOR RELIABLE ENERGY***

**Docket No. 11-CAI-02  
(Revised 9/12/11)**

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## DECLARATION OF SERVICE

I, Lynn Tien-Tran, declare that on, September 14, 2011, I served and filed copies of the attached Memo dated May 20, 1986, from William M. Chamberlain and is referred to in the Declaration of Terrence O'Brien, Paragraph No. 6, as part of Staff's case. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[<http://www.energy.ca.gov/proceedings/11-cai-02/index.html>]

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

***(Check all that Apply)***

**For service to all other parties:**

- Served electronically to all e-mail addresses on the Proof of Service list;
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**For filing with the Docket Unit at the Energy Commission:**

- by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method);

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- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**

Attn: Docket No. 11-CAI-02  
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***OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:***

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission  
Michael J. Levy, Chief Counsel  
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original signed by \_\_\_\_\_

Lynn Tien-Tran