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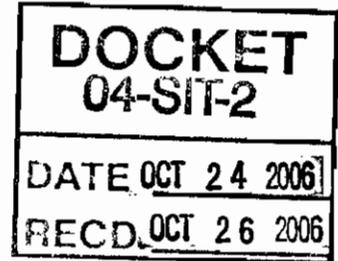
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October 24, 2006



Docket Office  
California Energy Commission  
1516 Ninth Street, Docket No. 04-SIT-02  
Sacramento, CA 95814

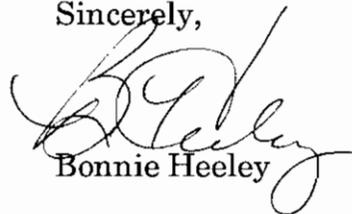
Re: Docket No. 04-SIT-02: Proposed Revision to Power Plant Siting Regs.

Dear Docket Office Clerk:

Enclosed are thirteen copies of CURE's additional comments regarding the Proposed Revision to Power Plant Siting Regulations. The originals of this letter were sent directly to the Commissioners.

Please docket this letter, conform a copy and return the copy in the envelope provided.

Sincerely,



Bonnie Heeley

:bh  
Enclosures

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VIA FACSIMILE AND U.S. MAIL

Commissioner John L. Geesman  
California Energy Commission  
1516 Ninth Street, MS-31  
Sacramento, CA 95814  
Fax: 916 653-3478

Commissioner Jeffrey Byron  
California Energy Commission  
1516 Ninth Street, MS-32  
Sacramento, CA 95814  
Fax: 916/653-3478

Re: Docket No. 04-SIT-02: Proposed Revision to Power Plant Siting  
Regulations

Dear Commissioner Geesman and Commissioner Byron:

California Unions for Reliable Energy ("CURE") provides these additional comments in response to the Associated Builders and Contractors of California's ("ABC") October 16, 2006 letter to the Commission in this proceeding. We are compelled to respond to ABC's letter because it contains serious legal and factual errors.

Stripped of its rhetoric, ABC's letter asks the Commission to eliminate the data adequacy regulation which requires an applicant to provide a description of local and regional socioeconomic circumstances affected by the construction and operation of a project. Specifically, ABC seeks to eliminate the disclosure of data on the availability of skilled workers to construct a project.

The Commission should disregard ABC's letter for several reasons. Most importantly, the letter evidences ABC's obvious misunderstanding of the statutory requirements underlying the Commission's licensing process; namely, the California

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Environmental Quality Act (“CEQA”). Also, ABC provides no evidence and points to nothing in the record that shows that the existing regulations requiring applicants to inform the Commission on the availability of skilled workers to construct and operate proposed projects is unworkable or burdensome.

### **CEQA Requires Socioeconomic Analysis**

The Legislature enacted CEQA to interject into the public agency decision-making process a mandatory institutional concern for the environment. (*Kaufman & Broad-South Bay, Inc. v. Morgan Hill Unified School Dist.* (1992) 9 Cal.App.4th 464, 467.) Like all public agencies, the Commission must comply with CEQA. The Commission’s power plant permitting process is a certified regulatory program under CEQA, meaning that the Commission need not prepare a separate environmental document so long as its analyses comply with CEQA’s substantive requirements. (*See Ultramar, Inc. v. SCAQMD* (1993) 17 Cal.App.4th 689.)

ABC must be unfamiliar with the express CEQA requirement that agencies, including the Commission, analyze physical change in the environment resulting from a project’s socioeconomic effects. (CEQA Guidelines, § 15064(e).) Under CEQA, if a proposed project will directly or indirectly lead to adverse physical changes in the environment, then the resulting environmental impacts must be revealed and mitigated. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1205-08 (socioeconomic effect of urban decay caused by proposed big box stores deemed a negative physical impact subject to CEQA analysis).) Had ABC been aware of CEQA’s legal requirements, it would not have asked the Commission to omit analysis of potential impacts resulting from the use of non-local temporary workers during project construction.

Fortunately, the Commission is well aware of this requirement. The Commission’s existing and proposed siting regulations correctly require applicants to provide information on the availability of skilled, local workers designated by craft to *construct* and *operate* proposed projects. Analyzing the impacts of non-local workers relocating to work on a proposed project is particularly important because temporary non-local workers present unique impacts. For example, project construction may result in the need to temporarily house non-local workers in mobile homes or the like, this in turn can burden local police, fire and waste management departments, among other negative physical impacts. All such direct and indirect impacts must be disclosed and mitigated by the Commission.

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**Applicants Can Easily Determine the Availability of Local Workers Based on Craft**

Finally, ABC is also wrong on the facts. ABC suggests that an applicant seeking expedited review could not accurately determine the availability of local skilled workers for its project. This may be true for non-union workers who, by definition, are not represented or organized. However, with respect to the availability of local union workers for a specific craft, an applicant merely needs to get in touch with the local building trades council to determine worker availability. Many recent applicants have done just this. (*See e.g.*, Panoche Energy Center Power Plant (06-AFC-5); Pastoria Energy Facility Expansion (05-AFC-01); El Centro Power Plant (06-SPPE-2); Avenal Energy Power Plant (01-AFC-20); AES Highgrove Power Plant (06-AFC-2); South Bay Replacement Project (06-AFC-3).) ABC's claim that the Commission's requirement for such information from applicants is "absurd" and "misplaced," is simply wrong.

Sincerely,



Marc D. Joseph

MDJ:bh

cc: VIA FACSIMILE AND U.S. MAIL  
James W. Reede, Jr., Ed.D. (916/654-3882)  
Docket Office (916/654-4385)