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California Energy Commission
Dockets Office, MS-4
Re: Docket No. 09-Renew EO-01
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET	
09-RENEW EO-1	
DATE	NOV 20 2009
RECD	NOV 20 2009

Via Electronic Mail - docket@energy.state.ca.us

RE: Docket Number 09-Renew ECO-01 “Renewable Energy Executive Order” Draft Best Management Practices & Guidance Manual: Desert Renewable Energy Projects (draft manual)

To Whom It Concerns:

Sempra Energy (Sempra) appreciates the opportunity to review and comment on the Draft Best Management Practices & Guidance Manual (BMP). Sempra commends the combined agencies for their efforts to accelerate the review of renewable energy projects within the local, state, and federal permitting processes while ensuring mitigation of environmental impacts. The Manual is a complete and inclusive project development description and the document addresses the responsible/permitting agency review and preliminary approval process prior to submittal of a project specific application to BLM.

While the merits of this approach are obvious, Sempra remains concerned that the realities of developing renewable energy projects in the complex regulatory environment of federal lands in California may overshadow the practicality of this well intentioned approach.

From a public policy perspective, Sempra agrees with the goal of the BMP to minimize unnecessary barriers to entry and unnecessary delays for renewable projects. Sempra recommends the BMP should also be structured to minimize unnecessary cost impacts on renewable projects, particularly at an early stage of development. More specifically, Sempra’s comments are meant to constructively address concerns that the recommendations do not adequately recognize issues with cost effective project management and timing. Sempra’s comments are intended to further the BMP objectives, in recognition of the environmental benefits associated with renewable energy projects and the fact that unnecessary cost impacts on these projects would only serve to harm electricity consumers and the renewable industry over time.

Chapter 1: Pre-Application Filing Guidance, Page 8

Item 4 of the pre-application filing guidance suggests parties have a tentatively approved draft biological assessment (BA) in advance of the application.

Sempra comment: This is problematic because generally FWS, DFG and the lead agency require a project application, an activated Endangered Species Section 7 Consultation process, a designated representative status, and a reimbursable agreement to cover agency staff time in advance of consideration for approval of the draft biological assessment. Perhaps a way to initiate the above process would be for BLM to accept a “preliminary application” prior to a more formal submittal. As well, an MOU or similar instrument could allow the above process to move forward prior to a formal application submittal.

Item 5 suggests appropriate cultural resource surveys, assessments, and project impact mitigation measures be completed as part of the pre-application process.

Sempra comment: It is important to recognize that companies interested in developing renewable energy projects should not be required to invest in the land or buy into a conservation bank prior to project approval as the expense cannot be supported until the project is approved.

Item 7 suggests that all the requirements of the local agency jurisdiction be incorporated into the application including but not limited to local zoning, general plan policies, land use, traffic, and height restrictions. The language specifically says that the project will not be located on lands under a Williamson Act contract, require a zoning change, or General Plan amendment.

Sempra comment: Sempra requests that this activity be clarified with regards to its applicability on federal lands. Presumably, projects entirely within federal lands would not need to comply with the indicated requirements since local jurisdiction within federal lands should not apply. The guidelines should recognize that many local jurisdictions are amenable to and have established procedures to evaluate and grant general plan amendments and zoning changes. This process should not be restricted by the BMP.

Also included in the pre-application filing guidance is the suggestion that a power purchase agreement (PPA) be executed in advance of the application process.

Sempra comment: This activity requirement puts the renewable energy developer in a situation where it would need to prematurely firm an excessive amount of project description details such as configuration, size and location to meet criteria set forth by utilities and the CPUC prior to entering into a power purchase agreement. PPAs set forth cost expectations that can be directly and indirectly affected by location, size, configuration, length of generation tie lines and other facility requirements, but these same requirements can be directly and indirectly affected by the outcome of the application process.

Additionally, PPAs are often awarded to projects furthest along in permitting and site control. Customers would be less likely to award a PPA in advance of this process. Removal of the PPA requirement (which could effectively eliminate many renewable projects) would level the playing field in this regard while addressing the issue outlined above.

Sempra suggests the BMP further refine the guidelines to reflect a “musts and wants” list thus prioritizing the requirements. Making the PPA a “want” for example would be an appropriate way to make the guideline less “compulsory.” Focusing the guidelines with regards to the “musts” may also simplify and add guidance to renewable developers with regards to which of these guidelines the agencies feel are more important.

General Pre-Application Activity Guidance, Page 9

Item 2 of the activity guidance observes that the renewable energy project proponent should initiate discussions with the transmission-owning utility with which the proposed project will interconnect at least 24 months prior to filing applications with the lead agencies.

Sempra comment: FERC rules prohibit jurisdictional utilities from disclosing non-public transmission information to third parties. Accordingly, the value of any “discussions” with a renewable energy project proponent in advance of the renewable energy project proponent submitting a formal new generator interconnection request is questionable. Nevertheless, to aid in project analysis project proponents can access and evidence publically available interconnect information. FERC mandates that transmission providers have established generator interconnect procedures which dictate the schedule of discussions and studies for interconnection requests.

Item 5 suggests potential renewable energy developers should initiate meetings with BLM at least 12 months before filing an application for ROW with BLM.

Sempra comment: Please note that trade secrets would be exposed if project proponents initiated early meetings. There should be more consideration of these issues before suggesting a 12-month lead-time.

Suggestion 8 to initiate meetings with applicable and appropriate local government offices 12 months in advance of filing applications with the lead agencies.

Sempra comment: Generally, local government agencies typically advise the developers the agencies’ preferred lead-times for initiating meetings. Sempra feels that there should not be an arbitrary lead-time not requested by the agency.

Biological Resources, Page 12

Item 5 in the biological resources section suggests that entities can complete all biological resource surveys and include all approval letters in applications to the appropriate lead agencies.

Sempra comment: It is unreasonable to expect that all BA surveys can be completed prior to filing an application as this process will unduly delay a potential project.

Item 10 suggests that project proponents develop a raven management plan in coordination with the appropriate agencies. The goal of the plan is to ensure that the project does not attract common ravens. Item 10 suggest the plan should specify a monitoring program.

Sempra comment: Sempra feels a raven management plan should not be required if the best practices are followed. Additionally if ravens are local to the area due to neighboring activities such as agriculture, the project should not be considered responsible for them.

Electricity Transmission, Page 16

The draft BMP plan states that applications to appropriate lead agencies contain a copy of the electric transmission interconnection study and the approval by the CAISO or the appropriate control agency.

Sempra comment: Sempra suggests that this activity would likely result in delaying renewable energy projects rather than expediting them since the interconnection study process can be rather prolonged. Incorporating preliminary interconnection study information is definitely a positive in determining the scope of a project but a full interconnection study prior to the submittal of an application is not possible without detailed information on project size and location.

Note that any interconnection study information which contains confidential information under the Homeland Security Act and FERC rules may not be disclosed without the appropriate security protections.

Chapter 2: General Best Management Practices, Biological Resources, Land Use/ Agriculture, Page 17

Item 5 states that a project on agriculture land under a Williamson Act contract will significantly delay the siting process as the contract must be terminated by the land owner and the county following prescribed steps and lengthy time frames. Projects, including transmission lines to the first point of interconnection with the existing electric transmission system, on Williamson Act land cannot be processed in an expedient manner.

Sempra comment: Generation tie-lines are a compatible use with Williamson Act. The project permitting process can include planning and zoning changes, and Williamson Act contracts may be cancelled. This should not have to be completed in advance of an application, but in conjunction with one. Otherwise projects will be unduly delayed.

Again, Sempra commends the participating agencies in your efforts to identify tasks to streamline the permitting process for renewable energy projects. As mentioned above, even though well intended, the strategies for providing some of this information do not fit within the realities of development of a renewable generation project. Many of the development activities outlined in Chapter 1 are not serial but parallel with lead agency application. We agree that dialogue with agencies should be initiated early in the process and welcome a plan that outlines how developers can streamline preliminary agency consultation to receive input, identify next steps, secure work authorizations and conduct environmental surveys to determine project constraints. Understandingly,

early dialogue prior to formal project initiation is sometimes impeded due to trade secrets, limited staff resources and uncompleted agreements.

Again, Sempra appreciates the opportunity to offer input and suggestions for this BMP document. As these guidelines continue to evolve to assist solar and other qualified energy developers, Sempra would appreciate the opportunity to participate in the ad hoc group of stakeholders.

Yours sincerely,

A handwritten signature in black ink, appearing to be "A. D. King", written in a cursive style.