In the Matter of: ) Docket No. 98-SIT-2

Blythe Energy, LLC ) COMMISSION ORDER ADOPTING
Petition for Jurisdictional Determination ) COMMITTEE PROPOSED DECISION

On November 4, 1998, the California Energy Commission held a public hearing, as part of its regularly scheduled business meeting, to consider the Proposed Decision issued by the Energy Facility Siting Committee in the above-captioned matter. The Committee recommended that, pursuant to Public Resources Code, section 25540.6(a)(1), the Commission exempt the prospective Blythe Energy Powerplant Project from the Notice of Intention (NOI) requirements of Public Resources Code, section 25502. The Committee also recommended that the Commission adopt certain portions of the Proposed Decision as a Precedential Decision pursuant to Government Code, section 11425.60.

After considering these recommendations and public comments received at the November 4th hearing, the Commission hereby adopts the Committee’s October 21, 1998, Proposed Decision, and declares the following portions of the Decision are Precedential:

1. The Finding that power sales to the California Power Exchange (PX) are the “result of a competitive solicitation or negotiation for new generation resources” within the meaning of Public Resources Code, section 25540.6(a)(1); this finding also includes gas-fired powerplant projects that provide evidence of intent to sell power to other power exchanges and/or wholesale, and/or retail marketers, and/or direct access power markets, and/or other power consumers; and,

2. The Findings and Conclusions numbered 1 through 6, inclusive, at page 19 of the Proposed Decision.

Further, based upon the recommendations contained in the Proposed Decision, the Commission shall review future Petitions requesting exemptions from NOI requirements according to the following:
1. All future NOI exemption requests are hereby assigned to the Energy Facility Siting Committee for review and recommendation to the full Commission; and,

2. The Energy Facility Siting Committee shall have the discretion to consider a Petitioner’s written testimony filed in the form of affidavits executed under penalty of perjury, as well as any other documentary evidence, in lieu of taking testimony at evidentiary hearings; and, after reviewing the evidence submitted, the Committee shall issue a Proposed Decision and schedule hearings on the Petition for consideration by the full Commission; and,

3. The Commission shall continue to review NOI exemption requests on a case-by-case basis.

The Commission bifurcated its ruling in this matter. Four Commissioners voted to grant Blythe Energy’s request for an exemption from NOI requirements. Commissioner Moore dissented. Three Commissioners voted to adopt portions of the Proposed Decision as a Precedential Decision. Commissioners Sharpless and Moore dissented.

Dated:________________________ ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

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WILLIAM J. KEESE DAVID A. ROHY, Ph.D.
Chairman Vice Chair

-Dissenting-

JANANNE SHARPLESS MICHAL C. MOORE
Commissioner Commissioner

ROBERT A. LAURIE
Commissioner