

**Comments of Jan Smutny-Jones Executive Director,  
of the Independent Energy Producers Association,  
on the California Performance Review<sup>1</sup>  
August 13, 2004**

Thank you for the opportunity to present this testimony on the recommendations made in the California Performance Review. I am Jan Smutny-Jones, the Executive Director of the Independent Energy Producers.<sup>2</sup> I previously served as Chair of the California Independent System Operator (CAISO) from Start-up through January 2001.

The recommendations made in the California Performance Review (CPR), along with steps taken by the Governors office, will send important signals to the investment community that California is serious about energy infrastructure reform. IEP and our members look forward to continuing to work with the Governors Office, the CPR Team, and the various Regulatory Agencies to establish a comprehensive framework for energy infrastructure reform in California.

California has no less than nine different state agencies that deal with energy matters<sup>3</sup>. This does not include the multitude of federal and local agencies that also govern elements of electricity markets and development including water quality control boards and air resources boards. A stable statewide energy policy and framework, along with state regulatory agencies that make consistent, complementary decisions will provide an environment that will attract needed investment in California.

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<sup>1</sup> The California Performance Review (CPR) was issued in July of 2004. IEP's comments focus on the recommendations made in Chapter 4; "Infrastructure: Enabling California to Perform" pages 689-962.

<sup>2</sup> IEP, a non-profit organization, is California's oldest and largest energy trade association representing the interests of electric generators and certified independent power marketers in California. IEP's members collectively own and operate more than 20,000 MW of installed generating capacity participating in California's competitive markets, and some are involved with new project developments that will operate within the competitive markets. In addition, power marketers are also included within IEP's membership. Other members, consisting of consultants and law firms, provide support services for the industry. These comments reflect the opinion of Jan Smutny-Jones, and do not reflect the opinion of IEP or its individual members.

<sup>3</sup> The California Public Utilities Commission, California Energy Commission, Air Quality Management Board, California Independent System Operator, California Electricity Oversight Board, California Power Authority, California Department of Water Resources, California Energy and Resource Scheduling, and the California Coastal Commission.

I hope you will take away the following overall issues that need to be addressed going forward:

- I. **Needed Regulatory Certainty:** The need for regulatory certainty was not overlooked by the CPR. A comprehensive energy policy, and perhaps an agency to consistently implement that policy, would send an important investment signal on the development of all infrastructure needs. Developing and implementing an integrated energy policy with stable rules and procedures are a requirement for providing reliable, clean, low-cost power to California
  - o Limiting the CPUC to its constitutional requirements (ratemaking) and placing all state energy related activities under a new successor state agency should be thoroughly considered.
  
- II. **Siting of New Generation and Repowering of Existing Facilities:** New generation and repowering of existing facilities is critical to develop needed infrastructure in California. Currently this process resides at the California Energy Commission (CEC). No license issued through the CEC process has ever been judicially overturned. The CEC, or its successor, should continue to facilitate this valued process, but endeavor to streamline and make more efficient the siting process.
  - o The CEC should conduct a managerial audit of its siting policy and procedures. The audit should focus on improving efficiency and reducing permitting costs. This will benefit consumers by allowing new and repowered generation to come online in an expedited manner to meet the growing demand of California.
  
- III. **Siting and Upgrading of the Transmission System:** A more comprehensive and timely transmission siting process will benefit the citizens of California by providing a more reliable system expanding opportunity to access new

electric supply. The need for a comprehensive, complementary transmission siting process in California is often overlooked. The current process for siting transmission in California has resulted in a system that has not kept up with the demand. In fact there have been several projects that have been extensively delayed and have resulted in unneeded congestion costs and elevated redispatch costs.

- Integrate the overall energy infrastructure siting process by placing the transmission siting authority with the CEC, or its successor, working in coordination with the CAISO.

**IV. Natural Gas Infrastructure and Supply** A diversified supply of natural gas will allow for a more consistent stable supply and pricing of this important commodity. There have been improvements made to the natural gas transportation system in California; particularly in Southern California. This investment, complemented by other natural gas backbone investments in the west, has created a robust market for natural gas. This benefits consumers by allowing natural gas to be transported from Canada, the Rockies, Texas, the Southwest, and Mexico.

- California should investigate the benefits of Liquefied Natural Gas (LNG) facilities to access additional natural gas supply. LNG facilities will allow for a more diverse supply of natural gas within the state.

### **General Observations**

#### **Needed Regulatory Certainty:**

The greatest benefit to establishing a comprehensive agency to address energy issues in California will be regulatory stability. Needed investment will be attracted to California when the rules and regulations are known and there is rational regulatory agency consistently implementing a known policy.

From a planning perspective, a comprehensive state agency will create a transparent process that coordinates utility Least Cost Planning, Integrated Resource Planning, and Requests for Proposals with permitting and siting processes for all state infrastructure needs. From a siting and infrastructure development perspective, a comprehensive state agency could ensure that infrastructure development proposals go through similar open, transparent, competitive processes in order to insure the best least-cost solution for California consumers and businesses.

**Infrastructure Siting:**

California must begin to address **all** state infrastructure issues from a long-term, coordinated, comprehensive perspective. Consumers of California, both large and small, will benefit from a financial and reliability perspective by eliminating the duplicative efforts that exist today within the energy infrastructure planning and development processes. The creation of a consolidated state energy infrastructure entity will eliminate competing state agencies which often provide conflicting policies, and will provide a needed foundation for infrastructure investment in California.

**Siting of Generation:**

From an overall perspective, the electrical generation siting process in California is fairly successful. However there is room for significant improvements. The siting process in California is costly and overly time consuming. For example, multiple agencies are required to issue permits through the CEC process (air quality, water quality, discharge). The CEC is reluctant to issue a final permit until all the permits are issued. The other agencies are reluctant to issue their permits until the CEC completes its environmental reviews. This creates a “chicken and egg” problem. The CEC should conduct a management audit of its process to encourage more efficient use of time and money.

The siting authority should have an “independent” role in the process, one which carefully assesses the merits of the proposed project. The siting authority should be neutral and objective and not advocate one position over another. The siting process could benefit by continuing to be driven from an “engineering” perspective and focusing on forward-thinking planning.

It would also be helpful for the CEC, or its successor, to look at the state planning aspect from a more comprehensive format. For example, the CEC, along with the California Independent System Operator, should consider identifying areas that they believe, from a reliability perspective, need generation and publish that to the market. This could be forward looking enough to allow for investment and competitive procurement decisions to be made by load serving entities before a crisis situation.

The creation of a comprehensive state energy infrastructure planning process should be complementary to the roles that local governments play. One of the largest issues with the siting of powerplants and other infrastructure is the lack of planning in some cases at the city and/or county level. On the other hand, some counties would like to attract new infrastructure to their communities and should be permitted to do so. For example, currently new thermo powerplants/repowers and geothermal facilities must go through the CEC if the net MW exceeds 50 MW. This should be amended if there is a willingness between both the local government and the developer to proceed with a needed project, and if the local government has specific expertise in the matter. Imperial County for example has had a geothermal element in its overall plan for years and has approved 14 geothermal plants in the last 15 years, all of which have been built. Under these circumstances, a county should be able to permit plants within its expertise (such as geothermal) larger than 50 MW. Local governments should have more authority and not be subject to CEC-level regulations if they have an appropriate process already established and are able to conduct siting matters consistent with state law.

The integration of local governments and planning development agencies in the development of a comprehensive statewide infrastructure plan is critical. They should

serve to be coordinated and complementary of one-another. It should be a priority of any comprehensive statewide energy agency to work with local governments to establish state and local standards and procedures that work in concert with one another. Coordination and interaction will help to bring new infrastructure online and available to provide a foundation for the development of a low-cost, clean, reliable fleet of generation.

### *Siting of Transmission*

Unfortunately, the transmission siting process has not benefited from the same successes of the generation siting process. Transmission siting includes several overall components: 1) Overall planning (grid wide) 2) Specific planning (identification of routes, land-use, etc) and 3) Siting. These components currently reside at a multitude of agencies. There should be a “one stop shop” for transmission infrastructure development.

By consolidating long-term demand forecasting, generation siting, and transmission siting within a single California agency, California can plan its future energy infrastructure in a comprehensive and predictable way. Such an approach is important not only to assure that demand is met on a least cost most efficient basis, but also important for attracting investment to meet these needs. This approach may require state legislation to clarify and/or consolidate the roles of the CPUC, the CAISO, and the CEC.

A thorough analysis for new transmission facilities includes an environmental review. Consistent with the California Environmental Quality Act, these responsibilities should also be consolidated at the CEC, or its successor agency in order to address the overall components collectively. To effectively plan the transmission system, the CEC must ensure that project determinations are made in a timely and efficient manner and must incorporate long-term regional planning criteria that take into account transmission impacts and demand. The CAISO should also participate in this process and provide an independent perspective.

It is also important to recognize the interdependent nature of the transmission system in the West. California is a part of a regional market, with transmission facilities providing access to a variety of regional power sources. While the siting (land-use) jurisdiction resides with the state, much of the ratemaking, operation and planning of the grid is under federal jurisdiction, or performed by multi-state entities. Like the coordination and complementary action recommended with local government, this new comprehensive agency should work with the appropriate regional and federal agencies as well.

The overall planning process of the CEC, or its successor, should be based on the CASIO transmission planning process. It should also be integrated into the Western Governors Association (WGA) and Western System Coordinating Council (WSCC) to plan for needed upgrades throughout the West. The CEC should also indicate what transmission projects, intrastate and interstate, are needed for California. Transmission planning (state wide) done through the CEC should also consider inputs from the CAISO, CPUC, IOU's, Municipal Utilities, WAPA, adjoining State Regulators and their utilities and all interested parties.

Transmission planning should look at meeting reliability criteria, allowing for the efficient use of facilities, minimizing congestion costs and minimizing market power. A process should be developed that would establish a comprehensive "need" for transmission consistent with federal and state laws such as the California Renewable Portfolio Standard (RPS). The goal should be to maintain our state's economic growth by allowing the most efficient MW to move around the grid on a non-discriminatory basis. The development and administration of the electric transmission system on a non-discriminatory basis will lead to clean, reliable and cost effective infrastructure investment.

Below please find a description of the responsibilities of each agency under a new comprehensive planning and siting process.

California Energy Commission (or its comprehensive successor agency):

- Overall coordination
- Forecasting
- Transmission and generation siting
- Environmental impact reports

California Independent System Operator:

- Operate the grid and conduct the plans on an open access, non-discriminatory basis
- Participate in Intrastate and Interstate transmission siting
- Work with the CEC on Environmental Impact Reports and Environmental Impact Statements.
- Transmission planning, demand forecasting, generation forecasting

Federal Energy Regulatory Commission:

- Maintain existing oversight of wholesale transmission service and rates

California Public Utilities Commission:

- Set distribution rates and terms of retail service including retail access to wholesale markets
- Issue Certificate of Public Convenience and Necessity (CPCN), if necessary, to implement the decisions made by the CEC

### **Other Infrastructure Development Needs:**

In order to build new power plants to meet the growing demand in California, comprehensive planning is needed in the generation, transmission, natural gas, water, and in coordination with local areas. A collective agency that would address these issues from a holistic perspective would expedite the addition of new resources.

### **Natural Gas Infrastructure**

A comprehensive agency that considers the needs and welfare of the entire state is essential to the development of an integrated system. The pipeline system is equivalent to the interstate highway system in which molecules from Canada to Mexico can move freely within the West. Currently the natural gas pipeline infrastructure appears to be sufficient. However, we must begin now planning for expansion based on expected growth. There is an increasingly competitive market for natural gas. Natural gas coming from Canada has choices about where to deliver; likewise for the Rockies and the Southwest. California must consider providing a stable regulatory environment in order to attract the needed natural gas supply.

The immediate need is not necessarily for pipeline upgrades but for storage facilities that will add needed molecules to the system in times of tight supply. For example, there are LNG facilities that are being contemplated in both California and Mexico that will provide needed molecules into the western gas markets. There are some needed upgrades, especially in the San Diego area that would have to be addressed prior to LNG facilities coming online that will benefit California as a whole, not just southern California. The development of LNG facilities also will rely heavily upon the continued implementation of a stable regulatory environment.