AMENDED IN SENATE APRIL 12, 2000

SENATE BILL No. 1388

Introduced by Senator Peace

January 24, 2000

An act *to amend Sections 25519 and 25523 of, and to repeal Section 25524 of, the Public Resources Code,* relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1388, as amended, Peace. Electrical ~~restructuring~~ *power facilities.*

~~The Public Utilities Act provides for the restructuring of the electrical industry in this state, including specific provisions with regard to the reliability and cost of electric transmission and distribution services.~~

(1) The Warren-Alquist State Energy Resources Conservation and Development Act requires the State Energy Resources Conservation and Development Commission to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The act requires that the commission forward an application for certification of a power facility to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility, and requires those local agencies to review the application and submit comments, as prescribed. The act requires the commission to transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to

the proposed site and related facilities and to the Attorney General.

This bill would *require local and state agencies having jurisdiction or special interest in matters pertinent to the proposed site and related facilities to provide their comments and recommendations on the project within 180 days of the date of filing of an application.*

(2) The act requires that the commission prepare a written decision after a public hearing on an application for certification, containing specified information, including, with respect to a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life. The act prohibits the commission from certifying any geothermal site and related facility unless it finds that the geothermal field dedicated to the proposed powerplant is reasonably capable of providing geothermal resources in sufficient commercial quantities to supply the powerplant over its planned life.

This bill would delete the above prohibition relating to certifying geothermal sites and related facilities.

(3) The bill would make legislative findings and declarations with regard to the reliability and cost of electricity service.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reliable, reasonably priced electricity service is and always has been essential for California's economic growth and for the health and welfare of its citizens.

(b) To improve the reliability and cost of electricity service in California, Chapter 854 of the Statutes of 1996 (hereafter AB 1890) restructured the state's electricity industry to allow market-based competition in the supply of electric power and created the Independent System Operator to ensure reliability, efficiently operate the

statewide transmission system, and ensure that necessary new transmission capacity was planned for and constructed.

(c) Prior to electric industry restructuring, California had experienced a decade-long hiatus in powerplant construction that, in conjunction with strong, population-driven electricity demand growth, had begun to jeopardize electric system reliability.

(d) The passage of AB 1890 ended this construction hiatus and stimulated private developers to file an unprecedented number of applications to build new, environmentally superior merchant powerplants in California.

(e) However, because these new powerplants will not be completed until 2002 or 2003, the state's electric system reliability will remain vulnerable during the next few years during periods when California and its neighboring states simultaneously experience very hot weather.

(f) This vulnerability will be exacerbated, in the event of a drought, by California's dependence on rainfall-driven hydroelectric power for over 20 percent of its annual electricity requirements.

(g) Adequate generation, transmission, and consumer-demand responsiveness alternatives are critical to managing the vulnerability of the state's electric system and ensuring reliable, reasonably priced, electricity.

(h) Therefore all of the following are necessary:

(1) Timely and efficient public processes for siting, licensing, and interconnecting new generation and transmission facilities.

(2) Providing tools and information to the state's electricity consumers to enable them to manage their energy use during periods when electricity is most costly.

(3) Equipping public and private institutions that protect the interests of California's citizens with the tools and authority they need to facilitate the timely development of required physical and policy infrastructure.

(i) This act is intended to ensure that needed processes and institutional capabilities are in place so California's citizens and businesses will continue to be assured reliable, reasonably priced, electricity service. Specifically, this bill is intended to do all of the following:

(1) Expedite the deployment of new in-state electric generation capacity.

(2) Expedite the development of necessary transmission capacity identified by the Independent System Operator.

(3) Expedite the development of necessary distribution capacity identified by the Public Utilities Commission.

(4) Maximize the potential benefits of energy conservation by facilitating the deployment of appropriate metering and communication and control technologies through the distribution system.

SEC. 2. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of ~~such~~ *the* site and related facility shall be filed with the commission. ~~Such~~ *The* application shall be in a form prescribed by the commission and shall be for a site and related facility ~~which~~ *that* has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site ~~which~~ *that* has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility ~~which~~ *that* was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the

applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), ~~which~~ *that* it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 for all projects ~~which~~ *that* require certification pursuant to this chapter and for projects ~~which~~ *that* are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency ~~which~~ *that* must make a decision~~ which~~ *that* is subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000), on a site or related facility, shall use the document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the

area of the proposed site and related facility. ~~Such~~ *Those* local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) *Local and state agencies having jurisdiction or special interest in matters pertinent to the proposed site and related facilities shall provide their comments and recommendations on the project within 180 days of the date of filing of an application.*

(i) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

~~(i)~~

(j) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. ~~In the event~~ *If* the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of ~~such~~ *those* modifications.

~~(j)~~

(k) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each ~~such~~ agency. The commission shall request any relevant laws, ordinances, or regulations ~~which any such~~ *that an* agency has promulgated or administered.

~~(k)~~

(l) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

SEC. 3. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2

(commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission ~~shall~~ *may* not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant prior to the commission's licensing of the project, to the extent that the proposed facility requires emission offsets to comply with local, regional, state, or federal air quality standards.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) ~~In the case of a geothermal site and related facility, findings on whether there are sufficient commercial~~

~~quantities of geothermal resources available to operate the proposed facility for its planned life.~~

~~(g)~~ In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

~~(h)~~

(g) In the case of a facility, other than a resource recovery facility subject to subdivision ~~(g)~~ *(f)*, specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

SEC. 4. Section 25524 of the Public Resources Code is repealed.

~~25524. The commission shall not certify any geothermal site and related facility unless it finds that the geothermal field dedicated to the proposed powerplant is reasonably capable of providing geothermal resources in sufficient commercial quantities to supply the powerplant over its planned life.~~

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