

# CALIFORNIA ENERGY COMMISSION

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## ***Although External Factors Have Caused Delays in Its Approval of Sites, Its Application Process Is Reasonable***

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### ***Audit Highlights . . .***

*Our review of the California Energy Commission's (energy commission) siting and approval process revealed that:*

- Although the energy commission has not always approved applications within the standard 12-month period, setbacks were due to a combination of factors.*
- Of the four states with comparable processes, only Oregon, at 30 months, took longer than California to approve applications. Minnesota, Florida, and Connecticut took between 7 and 15 months to approve applications, while the energy commission averaged nearly 17 months.*
- The energy commission is able to approve projects quicker than other permitting processes in California because it combines activities that are performed consecutively under other processes.*
- Ten applications have been approved under the new 21-day expedited process, adding over 850 megawatts of electricity to the State's supply.*

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**California Energy Commission's response as of December 2002**

The Joint Legislative Audit Committee (audit committee) requested that we examine the application process used by the California Energy Commission (energy commission) for approving new energy generation facilities. Specifically, the audit committee requested, among other things, that we review the appropriateness of procedures and time limits of the application process, the viability of the energy commission's expedited process, and the appropriateness of certifying the application process as equivalent to CEQA. We found that while the energy commission frequently missed the required 12-month deadline for approving applications, the actions of other parties often contributed to the delays.

Additionally, our review of Minnesota, Texas, Florida, Connecticut, and Oregon suggested that, with the exception of Texas, the tasks performed by each state when approving applications were generally similar. Minnesota, Florida, and Connecticut averaged approval times of between 7 and 15 months, Oregon averaged 30 months, and the California energy commission averaged nearly 17 months—2.5 months to assess the adequacy of the application and more than 14 months to approve it. Furthermore, the energy commission's process is more efficient than other equivalent processes available in the State. Specifically, whereas state regulations generally require the energy commission to approve applications within 12 months after deeming them complete, the California Environmental Quality Act and the Permit Streamlining Act allow up to 24 months for the approval of other types of projects that have a similar environmental impact.

Finally, the energy commission expects that 10 projects recently approved under its new 21-day application process will add over 850 megawatts of electricity to the State's supply by the end of September 2001.

**Finding #1: The energy commission's approval process has generally taken longer than 12 months.**

The energy commission has not always approved applications within the standard 12-month period. For 10 (43 percent) of the 23 applications approved since 1990, the energy commission missed the 12-month standard for approval by more than 30 days. Although the energy commission is ultimately responsible for the approval process, multiple factors contributed to the delays for most of these 10 projects and some of the delays were outside the energy commission's control. For all of the 10 applications that were approved late, applicants did not submit some of the required information in a timely manner. For 7 of these applications, other local, federal, and state agencies failed to process approvals promptly. In addition, outside parties raised objections to some of the proposed sites, thus delaying the approval of 3 applications.

Finally, the energy commission holds public workshops in which it attempts to resolve issues with applications. However, some of the delays caused by public intervention may be the result of the energy commission's failure to enforce its own standards for public workshops and requests for information. The energy commission's regulations generally allow 180 days from the date an application is deemed complete for groups to become intervenors and request additional information. Additionally, the energy commission's internal guidelines establish the same time frame for holding public workshops. However, in some cases since 1990, intervenors submitted data requests, and staff held public workshops, well past the 180-day standard. In fact, for 7 of the 10 applications that were approved late, workshops were held 220 days or more after the energy commission determined that the application was adequate.

The energy commission should exercise its authority to terminate applications when the applicant does not appropriately respond to requests for data. The energy commission should also more strictly enforce its standards that limit the time allowed for intervenors and other agencies to raise new issues and submit data requests to 180 days from the date the energy commission accepts the applications. Finally, the Legislature should consider establishing a firm 180-day deadline for intervenors to raise issues and submit data requests.

***Energy Commission Action: None.***

According to the energy commission, as a result of deregulation, California is presently dependent on certain power plant developers to bring on needed new generation to ensure system reliability. The energy commission also indicated that because many energy companies have lost significant stock value, energy companies that filed applications with the energy commission decided to delay project development to improve their balance sheets. The energy commission believes that, in this tenuous business environment, any action by the energy commission that can be seen as negative can have significant adverse consequences. Consequently, the energy commission plans to continue to suspend rather than terminate projects when applicants are not timely in submitting needed data.

The energy commission also noted that a strict 180-day limit for intervenors to raise issues and ask for information would address, to some degree, related delays. However, the energy commission believes the uniqueness of each project with its own issues and potential changes to the project design suggests that the flexibility provided in the current regulations should be maintained.

***Legislative Action: Unknown.***

We are not aware of any legislative action concerning this recommendation.

**Finding #2: The energy commission's development of expedited siting procedures may allow for faster approval of applications.**

The energy commission developed new 4-month and 21-day expedited processes to bring more power on-line for the summer of 2001. Additionally, to address concerns that construction of new power plants has seriously lagged in the past decade, the energy commission also established a 6-month certification process for thermal power plants that have no adverse environmental impact. It remains too early to determine whether the 6- and 4-month processes will be effective because only one project has been approved under either of these processes. However, the energy commission has approved 11 projects under the 21-day process.

We recommended the energy commission evaluate the effectiveness of the expedited 6- and 4-month processes and determine their long-term viability after an appropriate amount of time has elapsed.

***Energy Commission Action: Corrective action taken.***

The energy commission believes that the 4-month application process was appropriate given the severity of the energy crisis California faced in 2000 and 2001. However, because of the low percentage of projects it approved as 4-month applications (2 of 14 projects), the energy commission believes it would not be beneficial to reestablish this permitting process after January 1, 2003, its current sunset date.

Additionally, the energy commission expects to approve only 1 of the 12 projects submitted under the 6-month certification process. According to the energy commission, the application requirements for the 6-month certification process are more comprehensive than for the 12-month process and have resulted in projects being delayed while the developer attempts to complete the requirements. In the past two years, the energy commission's experience has been that when unexpected permitting issues arose requiring additional time to resolve, projects were converted to 12-month applications to provide additional time to review. The energy commission believes that in order for the 6-month application process to be successful developers need to carefully select sites and design their proposal to avoid or mitigate any potential environmental and other issues before filing their application. However, the energy commission stated that it continues to support the use of the 6-month application process and it plans to continue to work with developers to implement this review process for appropriate projects.