STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

September 23, 2011

Mr. Stuart Drown
Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

RE: Comments of the California Public Utilities Commission (CPUC) on the State's Coordination of Energy-Related Activities.

Dear Mr. Drown:

Thank you for the opportunity to submit comments on the state's coordination of energy-related activities. We support the goal of coordination on all energy-related activities, starting with the Energy Action Plans written by the CPUC in coordination with other energy agencies beginning in 2003, and continuing with the current monthly meetings of the "Energy Principals" including the Governor's office, the Energy Commission, CPUC, California Independent System Operator, California Environmental Protection Agency, and the Air Resources Board.

I submit the following comments on the coordination of energy policy pursuant to your letter dated August 17, 2011. I hope these comments are useful as part of an informed dialogue between the CPUC, the Administration, your Commission, and other stakeholders on how best to administer California's innovative energy policies.

I look forward to testifying before your Commission on September 27, 2011.

Sincerely,

Paul Clanon

Paul Clanon
Executive Director

Cc: Commissioners

Comments of the California Public Utilities Commission
On the State's Coordination of Energy-related Activities

Provided to the Little Hoover Commission
By Paul Clanon, Executive Director

September 27, 2011

The Legislature and the Governor have provided California's energy agencies with discrete missions and responsibilities.

- The California Public Utilities Commission (CPUC) regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies, and authorizes video franchises. The CPUC ensures that regulated industries provide reliable service at just and reasonable rates. The CPUC also sites transmission lines, and some gas pipelines and telecommunications infrastructure. In addition, the CPUC oversees a number of consumer-oriented programs including those supporting energy efficiency, demand response, installation of self-generation (including rooftop solar), and low-income assistance. Finally, the CPUC is responsible for the major portion of implementation of the state's renewables portfolio standard requirement.

- The California Energy Commission (CEC) forecasts energy needs, licenses thermal power plants 50 megawatts or larger, and sets the state's appliance and building-efficiency standards. In addition, the CEC develops and implements the Alternative and Renewable Fuel and Vehicle Technology Program to reduce the state's petroleum dependency and help attain the state climate change policies. (As of December 31, 2011, the CEC may no longer provide grants to research that advances energy science and technology, provide production incentives for existing and emerging renewable technologies, and provide incentives for solar electricity systems in new home construction due to the sunset of the Public Goods Charge.)

- The California Independent System Operator (CAISO) is a non-profit public benefit corporation that operates about 80 percent of California's high-voltage transmission grid. As a federally-regulated electric transmission operator, the CAISO is responsible for carrying out federal regulations requiring open access to electric transmission lines and planning for wholesale transmission facilities. In addition, the CAISO runs the state's wholesale electricity markets.

➢ Issue 1: Limitations of Previous Governance Proposals

In 2004, the Governor created the California Performance Review. The CPR proposed consolidating the energy agencies with CalTrans and other state agencies to form a Department of Infrastructure. This proposal did not gain much traction, possibly due to its being such an ambitious undertaking and lacking detailed analysis of potential efficiencies to be gained by the consolidation.

In 2005, the then Governor proposed a reorganization plan (GRP #3) to consolidate the state's energy-related programs in a new Department of Energy led by a secretary who would report directly to the Governor.

The state was then emerging from the energy crisis, which had resulted in rolling blackouts throughout much of northern California, bankrupted the state's largest electricity provider, and nearly bankrupted the other two prominent electricity providers. The intent of GRP #3 was to ensure a clear energy policy direction for California while streamlining implementation and increasing public access and transparency.

Some of the primary limitations in GRP #3 included:

- Failure to acknowledge the State Constitution, which states that the CPUC has authority over rates for all public utilities. The reorganization plan would have placed the ratemaking authority within the proposed new department, run by a Governor-appointed Secretary.

- Introduction as a Governor's Reorganization Plan. As a reorganization plan, the proposal could not have been amended and it would have taken effect automatically unless the Legislature formally rejected it. The proposal had many flaws and as such, it would have been subject to legal challenge should it have gone into effect. The author(s):

    - Did not use a stakeholder process to vet the language.
    - Could not use the legislative process to amend the language.

- Failure to provide a stronger barrier between the political policies of the governor-appointed secretary, and the analytical fact-based independent decision-making of the CPUC commissioners. The CPUC was established as an independent constitutional agency to ensure that the CPUC ratemaking decisions were shielded from the political pressures of Sacramento.

- Failure to acknowledge the tight linkages between policy-setting and the costs of achieving those policies, which require ratemaking authority.

Previous reorganization plans proposed to consolidate the CEC with elements of the Department of Conservation into a Department of Energy, and others attempted to abolish the CEC and parse out some of the elements to other departments. There may have been a lack of political will to carry out a departmental reorganization plan. Prior to deregulation of the electricity markets in 1996, the electricity industry had been relatively static for decades. It may not have been clear whether efficiencies or program improvements could be achieved by a consolidation.

➢ **Issue 2: The ability of the state's current collaborative approach to respond to current goals for affordable, reliable and renewable energy, as well as future challenges.**

<u>Overarching Collaborative Approach:</u> Over the past seven years or so, every month the Governor's staff hosts an Energy Principals Meeting, where the state energy departments discuss energy-related policy issues. Attendees include the Governor's staff assigned to energy matters, the President of the CPUC, the CEO of the CAISO, the Chair of the Air Resources

Board, the Secretary of California EPA and the Chair of the CEC. Also attending could include the Executive Director of the CEC, a CPUC Commissioner (not necessarily the President), the Deputy Executive Director of the CPUC, the Director of the CPUC Energy Division, the Vice President of Policy and Client Services of the CAISO, and others from the CAISO, the ARB, CalEPA, Resources Agency and/or the Director of the Office of Governmental Affairs from the CPUC. Participants bring up current issues and reconcile different departmental concerns.

Affordability: The CPUC has five Governor-appointed commissioners, a staff of approximately 1,000, and a Division of Ratepayer Advocates with a statutory mission of advocating the lowest possible rates for service consistent with reliable and safe service. Every three years the utilities file for a General Rate Case proceeding. A General Rate Case is the major regulatory proceeding for California utilities, which provides the CPUC an opportunity to perform an exhaustive examination of a utility's operations and costs. The General Rate Case allows the CPUC to conduct a broad and detailed review of a utility's revenues, expenses, and investments in plant and equipment to establish an approved revenue requirement. Parties to the proceedings include the utility representatives, as well as the Division of Ratepayer Advocates, The Utility Reform Network (a ratepayer advocacy group), specific industry representatives, local governments, the CAISO, and many others.

Every two years, the CPUC holds a Long Term Procurement Plan (LTPP) proceeding to review and adopt the utilities' ten-year procurement plans. The LTPP proceeding evaluates the utilities' need for new fossil-fired resources and establishes rules for rate recovery of procurement transactions. The CPUC evaluates the LTPPs using the least-cost best-fit principle.

Reliability: In 2004, the CPUC instituted a Resource Adequacy (RA) program. Under the RA program the CPUC requires all load-serving entities within its jurisdiction (LSEs, which includes investor-owned utilities or IOUs, direct-access providers, and community choice aggregators) to procure sufficient capacity resources serve its aggregate system load, plus a 15-17 percent reserve in case the CAISO needs to dispatch additional resources in real time. Each LSE files a monthly report that demonstrates that it has procured sufficient system and local resource adequacy resources to meet its RA obligations.

CPUC and CAISO staff coordinate to record and validate compliance by each LSE annually and monthly to ensure accuracy and completeness. CPUC staff also lead annual RA proceedings (R.09-10-032 is the most recent proceeding) to refine the RA program.

Renewable Energy:
Verification: The CPUC sets RPS targets and determines compliance with those targets. The CEC verifies the amount of renewable energy procured. More specifically, the CPUC's responsibilities include:

1. Determining annual procurement targets and enforcing compliance.
2. Reviewing and approving each IOU's renewable energy procurement plan.
3. Reviewing IOU contracts for RPS-eligible energy.
4. Establishing the standard terms and conditions used by IOUs in their contracts for eligible renewable energy.
5. Calculating market price referents (MPRs) for non-renewable energy that serve as benchmarks for the price of renewable energy.

The CPUC is able to make a compliance determination only after the CEC issues a Verification Report verifying renewable energy claims.

Renewable energy projects are often far from the grid and load centers, requiring extensive and expensive transmission upgrades. In order to achieve cost-savings through economies of scale and to limit environmental impacts and ultimate build-out time, large transmission projects are needed to access large geographic areas of developable, economic renewable resource potential. Proactive renewable transmission planning requires "big picture" judgment that coordinates transmission and resource / procurement planning to avoid piecemealed transmission solutions.

The CPUC actively coordinates its LTPP activities with the annual Transmission Planning Process run by the CAISO, because nearly all of the transmission lines that come to the CPUC for permitting are evaluated in the CAISO's planning process. In May 2010, the CPUC and CAISO signed a Memorandum of Understanding which requires the two agencies to coordinate their generation/procurement and transmission planning and to utilize a similar set of scenarios in each to ensure comprehensive and coordinated planning.

In 2007, the CPUC and CEC initiated the Renewable Energy Transmission Initiative (RETI) to help identify the transmission projects needed to accommodate California's renewable energy goals, support future energy policy, and facilitate transmission corridor designation and transmission and generation siting and permitting. RETI identified those renewable energy zones that could be developed in the most cost-effective and environmentally benign manner.

Beginning in 2010, the California Transmission Planning Group (CTPG) was formed by the CAISO, the IOUs, and the Publicly Owned Utilities (POUs) in the state who own and operate transmission. This group represents the first time both POU and IOU transmission planners have begun proactively and jointly planning transmission for the entire state, instead of for their individual grids.

These efforts flow directly into the CAISO annual TPP process, as required by FERC, which allows the CAISO to identify transmission needed for policy (including renewables), economic, or reliability purposes.

The efforts described above all relate to transmission and generation planning. In addition to those efforts, a great deal of work in the past few years has been devoted to coordinating on infrastructure siting issues.

Beginning in 2010, the Governor's office established both the Renewable Energy Policy Group (REPG) and the Renewable Energy Action Team (REAT) to coordinate both state and federal siting activities. The REPG meets monthly and includes members of all state and federal agencies with generation and transmission siting authority in California, including, but not limited to, the Federal Bureau of Land Management, Department of Interior, U.S. Fish and Wildlife Service, U.S. Forest Service, several military representatives (Marine Corps, Navy, Army), the CEC, California Department of Fish and Game, State Parks, and the CPUC. The REAT includes staff from the same agencies and meets weekly by conference call to ensure coordination among all of the siting activities and responsibilities of the various agencies.

At the REPG meetings, the group proactively engages with stakeholders, developers, and utilities to ensure timely and effective communication and coordination to site worthy projects as quickly as possible. In 2010 and 2011, a great deal of focus has been placed on streamlined permitting to support projects eligible for federal stimulus (ARRA) funds.

<u>Future Challenges:</u>

- Reconciling RPS goals with land-use goals. Large solar projects average about 10 acres of land per MW of capacity; whereas a large natural gas powerplant uses about 1/20th of an acre for each 1 MW of capacity. (Source: CEC siting projects)

- Evaluating the locations of RPS projects, both generation and transmission, in areas with sensitive habitats, such as the desert. The CPUC is participating in the Desert Renewable Energy Conservation Plan (DRECP) process underway at the CEC to identify preferred locations for development in the desert.

- Assessing the impact of transmission lines to minimize disruption. RPS transmission lines may need to use existing rights-of-way or establish new rights of way to go through urban areas, neighborhoods, or farms.

- Encouraging the siting of RPS projects on previously disturbed land.

- Integrating more distributed generation facilities into the distribution grid. A number of efforts are underway at the CPUC to ensure that not all emphasis for RPS projects is on larger projects. The CPUC is undertaking at process to revise its rules for interconnecting distributed generation to the distribution systems of the IOUs. In addition, there are numerous programs run by the CPUC designed to encourage more distributed generation including the California Solar Initiative, the Self Generation Incentive Program, the feed-in tariff programs for projects up to 3 MW, the Renewable Auction Mechanism, and the utilities' solar photovoltaic programs. These initiatives combined should bring an additional several thousand MW of DG onto the system by 2020.

- Ensuring federal policies do not preclude states from imposing stricter standards with regard to safety and reliability.

➢ **Issue 3: The criteria by which to judge additional administrative, statutory or constitutional changes to align policy direction and activities.**

- The degree to which the proposal increases efficiencies in state government, fiscally and/or programmatically.

- Whether the proposal can be legally challenged.

- The amount of transparency.

- The degree of public representation.

- How well the proposal diversifies power.

- Whether the proposal is fiscally responsible and imposes separate and discrete checks and balances.

- The degree to which the decisions made by new entities could be legally challenged.

➢ **Issue 4: The need for additional remedies at this time.**

As of December 31, 2011, the CEC will no longer be providing renewable grants or production incentives to existing renewable generators. As such, similar programs would be eliminated and no additional remedies are needed.