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May 19, 2005

James Mayer, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Dear Mr. Mayer:

Southern California Edison appreciates the opportunity to provide the Commission comments on the Governor's Reorganization Plan to create a Department of Energy and to respond to questions posed in your letter dated May 16, 2005.

Reliable, reasonably priced electric service is essential to the economic well-being of California consumers and businesses. To meet customer needs reliably, investment in new generating capacity and transmission facilities is needed. While customer demand has increased steadily, investment in new generating capacity has not. Market instability, resulting from a lack of policy consensus regarding a workable market structure, has stifled new investment placing reliability at risk.

The Governor's Reorganization Plan creates a Department of Energy, and vests authority for a unified, integrated state energy policy with a Cabinet-level Secretary of Energy. The Secretary also serves as the Chairperson of the Energy Commission, whose responsibilities for permitting and licensing generation facilities would be expanded to include the permitting and siting of natural gas lines and electric transmission facilities. We applaud the Administration for seeing the need to consolidate various entities and the need to streamline the permitting process. While it is appropriate to place responsibility and accountability with the Governor for the formation of energy policy as well as for the execution of programs consistent with that policy, it may not be appropriate to vest broad decision making authority with the Secretary of Energy in those matters requiring the resolution of disputes between parties and the adjudication of issues.

The Reorganization Plan does not itself define a state energy policy, but instead vests with the Secretary of Energy the sole and exclusive responsibility for the management of all state energy policy. While the current Administration's energy policy supports a competitive wholesale and retail market structure, a future Administration may not. Absent a true policy consensus on a workable competitive market structure, the reorganization itself, regardless of its possible merits, will not resolve the underlying instability in the market.

The Reorganization Plan vests not only policy-making authority with the Department of Energy, but also overly broad decision-making authority. Under the proposed Reorganization Plan, state energy policy will be implemented through the Department's actions to plan for and forecast energy demand, determine the need for and reasonable costs of natural gas lines and electric transmission facilities, to permit, site, finance, own, operate, and construct generation facilities, and to monitor and oversee the energy market. It is unclear how this organizational structure will provide regulatory certainty and market stability sufficient to support long-term investment in generation and transmission facilities to reliably and affordably serve California consumers.

- What are the State's greatest challenges in developing a cohesive energy policy? How does the State's organizational structure impede or enable resolution of those challenges?

  The greatest challenge in developing a cohesive energy policy is the lack of a clear durable framework to support investment in energy infrastructure. While the Administration supports the development of competitive wholesale and retail markets, there is no consensus on this issue among other California policymakers. Continued regulatory uncertainty and market instability has stifled investment in new generation, even though thousands of MW of generating capacity has already been permitted by the Energy Commission. The state's organizational structure does not impede or enable resolution of these challenges. The lack of a market structure to support investment in new generation, retain existing generation, and allocate the cost of capacity equitably to all customer load does.

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- Does the Governor's proposed reorganization plan solve these structural deficiencies? Does the plan create any new challenges for developing and implementing a cohesive energy policy?

  The deficiencies are in the state's market structure, not the state's organizational structure. "Structural deficiencies" in the organization of California's energy agencies are not the root cause of the current market instability, lack of policy consensus regarding a workable market structure is.

  Moreover, the proposed plan could create new challenges for developing and implementing cohesive energy policy. For example, the proposed plan would transfer permitting and siting authority for natural gas lines and electric transmission facilities from the Public Utilities Commission (CPUC) to the Department of Energy. Adequate natural gas and electric transmission facilities are needed to support generating capacity to reliably serve customers. The existing CPUC permitting and siting process includes a determination as to whether a project is "needed" and as to what costs are "reasonable." The CPUC has a statutory mandate to ensure that regulated utilities meet their obligation to provide reliable electric service at just and reasonable rates. The CPUC's determination of "need" and "reasonableness" are made consistent with this mandate.

  What criteria would the DOE / CEC apply to the "need" test? What criteria would be applied for cost "reasonableness"? Would DOE / CEC decisions be binding on the CPUC? Would DOE / CEC decisions ensure that sufficient investment in gas and transmission facilities are made to support generating capacity to reliably serve customers at just and reasonable rates?

- What impact might the new organizational structure have on the price and reliability of energy in the state? How will the structure affect the ability of investor owned utilities to provide reliable and efficient energy?

  It would be difficult to predict with any certainty exactly what impact this new organizational structure might have on electricity prices and reliability. However, if the proposed organizational structure creates new uncertainty and instability with respect to investment in natural gas lines and electric transmission facilities, and does not support a market structure to incent investment in new generation, retain existing generation, or allocate the cost of generation equitably to all customer load, reliability will be at risk, the price of energy will increase, and the ability of investor owned utilities to provide reliable electric service at just and reasonable rates will be impaired.

Thank you for the opportunity to provide comments on the Governor's Proposed Reorganization Plan to create a Department of Energy and to respond your questions.

Sincerely,

John L. Jurewitz

John L. Jurewitz, Ph.D.
Director of Regulatory Policy