



ENVIRONMENTAL DEFENSE

finding the ways that work

BEFORE THE NEVADA ENVIRONMENTAL COMMISSION

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**COMMENTS OF ENVIRONMENTAL DEFENSE
September 2007**

Environmental Defense respectfully submits these comments on behalf of our numerous members in Nevada that are deeply concerned about the adverse impacts of global warming pollution and the serious financial and regulatory risks associated with expansive reliance on conventional coal plants that do not address their carbon dioxide emissions. Environmental Defense supports the petition for the establishment of a greenhouse gas emissions performance standard submitted by Western Resource Advocates.

Sierra Pacific's Own Statements to Federal Securities Regulators Recognize New Climate Change Regulations are Impending, that Sierra Pacific Faces Material Financial Risks, and Suggest its Customers Should Bear the Costs of Future Regulations

On March 1, 2007, Sierra Pacific Resources filed its annual Form 10-K with the Securities and Exchange Commission in which it (1) recognized that greenhouse gases are air pollutants like NO_x, SO₂ and mercury, (2) anticipated that new climate change regulations may be adopted and become applicable to Sierra Pacific and have a "material adverse effect" on its financial condition, and (3) acknowledged that its financial condition depended on its ability to pass the costs of additional environmental regulations onto its customers:

"Existing environmental regulations regarding air emissions (such as NO_x, SO₂, mercury emissions or greenhouse-gas emissions), water quality and other toxic pollutants may be revised or new climate change regulations may be adopted or become applicable to us. Revised or additional regulations, which result in increased compliance costs, increased construction costs or additional operating restrictions, could have a material adverse effect on our financial condition and results of operations particularly if those costs are not fully recoverable from our customers...."¹

¹ See Sierra Pacific Resources/NV/ - np at p. 27 (filed on March 1, 2007), available on-line at:

States Across the West are Limiting the Global Warming Pollution from Coal-Fired Power Plants to Protect the Environment from the Serious Effects of Climatic Disruption and to Protect Consumers from Bearing the Financial Risks of Future Regulation

Not surprisingly, states across the western United States are limiting the extensive global warming pollution from coal-fired power plants in the same way that pollution of sulfur dioxide, oxides of nitrogen and particulate matter have long been subject to emission standards. By establishing greenhouse gas emissions standards today, these states are protecting the environment from dangerous global warming pollution and protecting consumers from the serious economic implications associated with the failure to address regulatory risks.

- On May 14, 2007, Montana adopted requirements for new electric generating units “primarily fueled by coal” to capture and sequester a minimum of 50% of the carbon dioxide produced. The requirement takes effect on January 1, 2007.²
- On May 3, 2007, Washington adopted a greenhouse gas emissions limitation requiring new power plants and long-term contract renewals of five years or more to meet a standard that reflects the lower of 1100 pounds of greenhouse gases per megawatt-hour or the average available greenhouse gas emissions output of new combined cycle natural gas thermal electric generation turbines commercially available and offered for sale. The following emissions do not count as emissions from the power plant and therefore *are* considered emissions reductions in determining compliance with the emissions limit: (1) emissions injected permanently into geologic formations, (2) emissions permanently sequestered by other means approved by the state, and (3) emissions sequestered or mitigated with offsets if can show sequestration infeasible and offsets are within western grid and meet an additionality test (by showing such emissions reductions are not otherwise required). The standard takes effect on July 1, 2008.³
- On September 29, 2006, Governor Schwarzenegger signed into law California Senate Bill 1368 that codified rulemaking processes under way in California to establish a greenhouse gas emissions performance standard for electric generating units at a rate that is no higher than the rate of emissions of greenhouse gases for combined-cycle natural gas baseload generation. Regulatory agencies implementing this law have recently established a limit of 1100 pounds of carbon dioxide per MW-hour. The standard applies to any long-term contract for baseload power of five years or more. Carbon dioxide injected in geologic

<http://ccbn.10kwizard.com/cgi/convert/pdf/SIERRAPACIFICRE10K.pdf?pdf=1&repo=tenk&ipage=4715149&num=-2&pdf=1&xml=1&odef=8&dn=2&dn=3> (emphasis added).

² HB 0025.

³ SB 6001.

formations so as to prevent the release into the atmosphere shall not be counted as emissions of the power plant and thus *are* considered emissions reductions in determining compliance with the standard. These rules took effect February 1, 2007 for investment-owned utilities and very recently for municipal utilities.

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Accordingly, Environmental Defense respectfully seeks the establishment of a greenhouse gas emission standard under Nevada law to address the serious consequences of climate change and the material financial risks associated with new coal-fired power plants that do not address global warming pollution today.

Respectfully submitted,

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