

DOCKETED

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August 5, 2016

Camille Remy-Obad
California Energy Commission
Dockets Office, MS-4
Re: Docket No. 16-MISC-01
1516 Ninth Street
Sacramento, CA 95814-5512

**RE: California Energy Commission Request for Qualifications Delegate
Chief Building Official Services for the STEP Division, Docket No. 16-
MISC-01**

Dear Ms. Remy-Obad,

AES Southland Development, LLC (AES), a subsidiary of the AES Corporation, provides these comments and questions on the proposed procedures for the Designated Chief Building Official (DCBO) selection process.

The AES Corporation is a US based global power company with distribution and generating businesses in 17 countries around the world and over 35 GW of generating capacity in operation. In California, AES generates enough electricity to power more than four million homes and businesses from both thermal power plants and renewable energy facilities. AES currently has two facilities under review by the California Energy Commission (CEC), the Alamos Energy Center and the Huntington Beach Energy Project. Each project will provide much needed generating capacity to meet local reliability needs in the Los Angeles Basin, and will be an integral part of helping California meet its clean energy goals and environmental goals for the future.

The review and approval of plans for the construction of a new power plant (or any major industrial facility) is a very important function that must be performed with a high level of care and expertise. This review helps to ensure that the project will meet all applicable building codes and that it will be constructed in accordance with all local and state safety standards. These tasks are typically performed by local building officials.

Our first and most fundamental question regarding the proposed new DCBO procurement procedures is this: What problems are the new procedures intended to solve?

From the perspective of a company that owns and operates power plants in California, the primary problems with the current DCBO process are that it is extremely expensive, unnecessarily complex and inefficient, and adds risk to meeting development schedules and firm interconnection and electricity delivery dates. Any new DCBO procedures that are adopted by the CEC must address these problems.

It is important that the process of overseeing compliance with the California Building Code and other safety standards be performed properly. It is also important that the process be performed efficiently and at a reasonable cost. The DCBO process, which is unique to the CEC, is significantly more expensive and more complicated and burdensome than any process with which we are aware of. The added cost of DCBO services for a major new power plant involves millions of dollars in direct fees to new project development and thousands of hours of labor in managing the bureaucratic process that it entails. While it is beneficial for the DCBO to perform dedicated services on-site for new power plant construction to ensure code and standard compliance, this benefit does not explain, much less justify, the exorbitant costs. The costs of a DCBO for a CEC jurisdictional facility represent a growing and significant percentage of the total capital valuation of the project, which places CEC jurisdictional facilities at a real competitive disadvantage to non-thermal projects and non-CEC jurisdictional power plants in California, and all projects sited in other states.

The rate schedule for DCBO services is only one factor that influences the total cost of the DCBO. Another important factor is the time spent to perform review and approval of designs and plans. Under the CEC process there is no standard of performance; therefore, from our experience, DCBOs conduct a much more time-consuming review than is performed by local officials or licensing authorities in other jurisdictions. This can be cured by setting clear performance standards for DCBOs, by capping the total costs that can be charged for specific tasks or by allowing DCBOs and project owners to negotiated total, fixed price contracts.

Therefore, a primary purpose of revising the DCBO selection process should be to understand why the costs of DCBO services can be many times greater than comparable services performed by local building officials in California and by licensing authorities in other jurisdictions. Once these costs are understood, the DCBO selection process should be designed to bring the DCBO costs in California in better alignment with other comparable jurisdictions.

Project-specific DCBO services

AES has two concerns with the proposed project-specific DCBO selection process. First, AES is concerned with the timing of the selection. Given the expected duration for completion of the process (17-21 weeks from the RFQ to final signatures), AES believes that further discussion is warranted to ensure that plan

checks and other approvals will occur in a timely manner to facilitate the timely start of construction and maintaining construction schedules for new facilities.

Second, AES is concerned with how rates for project specific DCBO services will be established, particularly since it appears that the project owner will have no input as to whether the rates negotiated by the Commission, but paid for by the project owner, are reasonable. A predetermined price structure set by the CEC will lock the project owner into a rate schedule that may be considerably higher than what the project owner could negotiate directly. It is also unclear whether project owners can enter into a flat rate proposal with a DCBO, or if all agreements will be based on hourly rates.

On-call DCBO services and rates

AES supports the concept of an on-call DCBO, who is already under contract to the CEC, to perform limited DCBO services for minor project modifications that would normally require building official review or local discretionary approval. AES has worked with many different building officials on many different projects. If there is one thing we have learned from our experience, it is that one size does not fit all. The technical expertise required to review and approve one part, process or aspect of a generating facility may not be transferrable to another part of the plant or process. AES does not support limiting the on-call DCBO to a single DCBO firm. We encourage the CEC not to adopt the proposal that a single firm provide on-call DCBO services to all projects statewide over a two year period.

Instead, the CEC should create a list of qualified DCBOs, representing technical and geographical diversity, so that the project owner can select the most efficient and cost-effective option to provide the necessary services.

Furthermore, an on-call DCBO should be only one of the tools available to meet the needs for review of minor project modifications. The project owner should also be allowed the option to use the services of the local building official or the services of the DCBO that oversaw original construction of the project to perform DCBO services for minor project modifications.

The CEC should also consider setting criteria to ensure that on-call DCBO services are cost-effective to prevent over-billing for minor project modifications. At the stakeholder roundtable, commenters discussed the idea of setting a fixed fee schedule for the DCBO to perform certain services, such as that used by many local building departments. This would significantly reduce the need for detailed invoicing and was positively received at the workshop.

AES also has serious concerns with the proposed method for payment of DCBO invoices. From the stakeholder discussion, we understand that the CEC will approve and pay DCBO invoices, then pass on the costs to the project owner for

reimbursement. Further discussion and clarification of this arrangement is needed to address the following issues:

- What is the process for resolving engineering and technical disputes with CBOs during design and construction?
- When will the project owner be apprised of the costs for the DCBO on-call services?
- Will receipt of a reimbursement request from the CEC be the first instance that the project owner becomes notified of the costs for services?
- What is the dispute mechanism for project owners upon receiving reimbursement requests from the CEC?
- What measures will be instituted to allow the project owner to demand an accounting of costs?

As described above, AES is concerned with the management and determination of DCBO costs and ensuring that construction approvals occur in a timely and efficient manner. AES is available to further discuss its concerns, and looks forward to further stakeholder discussions to discuss the proposed changes to the DCBO process.

Sincerely,

A handwritten signature in black ink, appearing to read "S. O'Kane". The signature is fluid and cursive, with a large initial "S" and a stylized "O'Kane".

Stephen O'Kane
Vice-President
AES Southland Development, LLC