STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

DOCKET
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IN THE MATTER OF:	)	
	)	Docket No. 01-AFC-7C
PETITION TO AMEND THE COMMISSION	)	
DECISION APPROVING THE APPLICATION	)	
FOR CERTIFICATION FOR THE	)	
RUSSELL CITY ENERGY CENTER	)	
	)	

PROJECT OWNER'S STATUS REPORT #2

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STATE OF CALIFORNIA

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PROJECT OWNER'S STATUS REPORT #2

The Russell City Energy Company LLC ("Project Owner") submits this Status Report in response to the Commission Staff's Status Report #2 issued on May 11, 2007.

I. Status of the Proceeding

The status of the proceeding is as follows:

(1) The Project Owner has cooperated fully and in a timely manner with the Staff's investigation. The Project Owner and Staff have been conferring weekly to review the status of the Staff's review. The Project Owner has responded fully to all Staff Data Requests within the deadlines specified by Staff. As of December 2006, the Staff reported that it had concluded its investigation of at least 16 of the 20 technical areas. For these areas, the Staff reported that there are no disputed issues and the areas are "ready for publication."[1]

(2) The Bay Area Air Quality Management District (BAAQMD or District) is proceeding in a timely manner in its assessment of the air quality impacts of this project. BAAQMD issued

[1] CEC Staff Status Report #1, February 27, 2007, p. 1.

a Preliminary Determination of Compliance on April 12, 2007. The public comment closed May 12, 2007. A Final Determination of Compliance is expected on or before June 1, 2007.

In short, the Project Owner has done everything expected by the Committee and requested by the Staff to move this proceeding forward on schedule. However, despite the Project Owner's efforts, the Staff has been unable to complete its analysis in a timely manner. Although the Staff and Project Owner agreed upon a schedule just two months ago (and the Committee approved the schedule) the Staff now proposes further lengthy delays in the preparation of the Staff Assessment.

A. The Staff's Proposed Delays Are Unjustified.

This is the second time the Staff has proposed substantial delays in this proceeding. The Staff originally proposed to issue its Staff Assessment on February 19, 2007. When the Staff was unable to meet this date, the Project Owner was extremely disappointed and apprehensive about the delay. Nevertheless, the Project Owner negotiated in good faith with the Staff for revised dates which provided for Part 2 of the Staff Assessment to be issued on May 7, 2007, an 80 day delay in the original schedule.

Staff's newest proposal to further delay the issuance of the Staff Assessment is completely unjustified. The current schedule calls for the Staff to update Part 1 of the Staff Assessment by May 4, 2007. Without any explanation whatsoever, Staff simply deletes this item from its proposed schedule and apparently combines it with issuance of Part 2 of the Staff Assessment.

The Staff also asks to delay issuance of Part 2 of the Staff Assessment from May 7 to June 8 – an additional one month delay or a 110 day delay in the original schedule. However, there is no explanation why such a delay is necessary. The PDOC was issued only a few days

late, not a month. The Petitioner's Data Responses were submitted on April 13, prior to the date set by the Committee schedule. And almost all of the technical areas are uncontested. There is simply no excuse for such an excessive further delay.

B. The Staff's Proposed Delays Exceed The Timelines For Both A 6-Month AFC And A 12-Month AFC.

The Staff now proposes to issue its Staff Assessment on this Amendment on June 8, 2007 – 200 days after the Amendment was filed. By any measure, this is an extraordinary delay. Under the typical 6 month AFC schedule, the Staff Assessment is issued 75 days after the Application is deemed complete. Under a typical 12 month AFC schedule, the Preliminary Staff Assessment is issued 150 days after the Application is deemed complete. The Staff's delays in issuing the Assessment, assuming this is the last delay, have turned a relatively non-controversial amendment into a quagmire of procrastination.

C. The Staff's Proposed Delays Threaten the Completion of the Project by June 1, 2010.

The project owner has entered into a Letter of Intent with PG&E to enter into a long-term Power Purchase Agreement (PPA), and is required by this agreement to begin construction on a schedule to support the commercial operation date of June 1, 2010. The PPA has been approved by the California Public Utilities Commission (CPUC). The CPUC, PG&E and the people of California are counting on this facility to come on line as scheduled in order to meet California's critical energy needs in 2010. They are also counting on the CEC to process the necessary regulatory approvals in a timely manner.

At the Informational Hearing and Site Visit, the Project Owner requested final approval of the Amendment from the Commission and BAAQMD by June 2007. We believed that this

target deadline was reasonable because it was consistent with a 6-month AFC schedule. BAAQMD is on schedule to issue a FDOC by June 2007. The Commission Staff is not.

PG&E, in parallel, is working with the CPUC in connection with the transmission system that will tie the RCEC to the PG&E transmission system. The CPUC will rely upon the CEC approval of the transmission interconnection in granting a Certificate of Public Convenience and Necessity (CPCN) to PG&E to construct the transmission line. Although the CEC's original decision certifying the RCEC also certified the transmission line between the RCEC and the PG&E system, the slight relocation of the project site required a slight relocation of a portion of the transmission line route. This minor change is one component of the RCEC Amendment. Unfortunately, the CPCN application cannot be filed until the CEC has approved this minor modification to the original transmission line route.

Following CPUC approval of the CPCN, the Project Owner will require an additional six months to issue contracts, arrange financing and complete engineering and procurement. As explained at the Informational Hearing, the Project Owner plans site mobilization in May 2008, in order to meet a commercial operation date of June 1, 2010.

The Staff's proposed delays in issuing the Staff Assessment will make it extremely difficult for the Commission to issue a decision in June 2007. The greater the delay beyond June 2007, the greater is the risk and difficulty of meeting the June 1, 2010 commercial operation date.

II. Project Owner's Proposed Schedule

A. The Commission should order the Staff to issue the errata to Part I of the Staff Assessment by May 18 and to issue Part 2 of its analysis no later than May 25.

The Commission must order the Staff to complete the errata to Part 1[2] and to issue Part 2 of the Staff Assessment immediately. The Staff has shown in other proceedings that it is able to act expeditiously when directed to do so.[3] The Project Owner respectfully submits that where the issuance of the Staff Assessment is already three months late, this is an instance where the management of the Division should authorize overtime, allocate additional resources, expedite administrative review, or whatever else is necessary to ensure a timely workproduct. Attachment 1 sets forth the Committee's Current Schedule, the Project Owner's Proposed Schedule and, for purposes of comparison, the Staff's Proposed Schedule.

The Project Owner's proposed schedule differs from the Staff's Proposed Schedule in the following respects:

- The Committee should direct the Staff to file the errata to Part 1 of the Staff Assessment no later than May 25. Per the current Committee schedule, this errata was due May 4. The Staff proposes to defer this filing to June 8.
- The Committee should direct the Staff to file Part 2 of its Staff Assessment no later than May 25. The Staff proposes to defer this filing to June 8, apparently to await issuance of the FDOC. However, there is no need to await issuance of the FDOC. It is unlikely that there will be any significant changes between the PDOC

[2] The Staff had previously agreed to issue errata to Part 1 of the Staff Assessment by May 4. The Project Owner did not agree with Staff to any extension or delay in issuing this errata. Recognizing that the deadline has passed, we continue to believe this errata should be filed as soon as possible.

[3] For the Inland Empire Energy Center Amendment 1, the Staff issued a complete 128 page Staff Analysis, addressing all aspects of the proposed Amending including Air Quality, 85 days after the amendment was filed.

and FDOC because the preliminary indication from BAAQMD is that it received no comments from the public or any governmental agency prior to close of the public comment period.

- The Committee should schedule June 8 as the deadline for agency comments on Part 2 of the Staff Assessment and for the Staff Assessment Workshop. There were no agency comments on Part 1 of the Staff Assessment; therefore, two weeks should be a reasonable period for review of Part 2.
- The Committee should direct the Staff to issue the Errata to Part 2 of the Staff Assessment promptly after the close of the Staff Assessment workshop. Staff proposes a two-week delay after the Workshop to issue the errata. Such a lengthy delay is entirely unnecessary. In comparison, for the Inland Empire Energy Center ("IEEC") Amendment, the Staff issued the errata to its Analysis, just 11 days after publishing the Analysis.

The Project Owner also suggests dates for the Prehearing Conference, Evidentiary Hearing (if necessary) and issuance of an order on the Amendment. The suggested schedule is consistent with the typical schedule for issuance of a decision on a 6 month AFC. It should be noted, however, that because this is an Amendment, rather than a new Application, it is within the Committee's discretion whether to issue a PMPD, to hold a Committee Conference on the PMPD or to issue a Revised PMPD. None of these steps were found to be necessary for the

Inland Empire Energy Center Amendment 1. The schedule for this proceeding can be significantly shortened if the Committee finds it appropriate to issue an Order in the same manner as for the IEEC Amendment.

May 16, 2007

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

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ATTACHMENT 1

Proposed Schedule for the

Russell City Energy Center (01-AFC-7C)

Activity	Committee Date	Project Owner's Proposal	Staff's Proposal
Amendment petition filed	Nov 17, 2006		
Informational Hearing and Site Visit	Dec 15		
Staff files data requests	Dec 20		
Petitioner owner files data responses	Jan 15, 2007		
Local, state, and federal agency preliminary determinations filed	Jan 17		
Staff data response workshop	Jan 22		
Parties file Status Report #1	Feb 27		
Staff files second round of data requests	Mar 8		Mar 08
Staff Assessment Part I filed	Mar 30		Apr 03
Staff files AQ data requests	Mar 30		Apr 02
Staff Issue Resolution, Data Response and SA Workshop	Apr 09		Apr 09
Preliminary Determination of Compliance issued	Apr 02		Apr 12
Agency comments on Staff Assessment Part 1 filed	Apr 16		None
Petitioner files responses to air quality data requests	Apr 16	Apr 13	Apr 24[4]
Staff Issue Resolution, Data Response AQ Workshop			Apr 25
Errata for Staff Assessment Part 1 filed	May 4	**May 25[5]**	**Jun 08**
Final Determination of Compliance issued by District	Jun 1		Jun 1
Staff Assessment Part 2 (with revised Part 1)[6] filed	May 7	**May 25**	**Jun 08**
Agency comments on Assessment Part 2		**Jun 8**	**Jun 22**
Staff Assessment Workshop		**Jun 8**	**Jun 22**
Errata for Staff Assessment Part 2 filed	Jun 22	**Jun 11**	**Jul 6[7]**
Pre-hearing Conference	TBD	**Jun 13**	
Evidentiary hearing	TBD	**Jun 13**	
Committee files PMPD	TBD	**Jul 3[8]**	

4 The Petitioner filed its responses on April 13, not April 24.

5 Staff has not justified delaying issuance of the errata on Part 1 from May 4 to June 8. If errata is issued in a timely manner, it will aid the Committee in preparing the order on undisputed issues.

6 The Staff previously agreed to issue separate errata for Part 1 and not include it again in Part 2.

7 Staff has not justified a 14 day delay in issuing errata to Part 2 of the Staff Assessment.

Committee conference on the PMPD	TBD	**Jul 13**
Revised PMPD	TBD	**Jul 16**
Commission Decision	TBD	**Jul 18**

8 The typical 6 month AFC schedule allows 20 days for preparation of PMPD after close of evidentiary hearings. June 13 to July 3 would be 20 days.

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and Development Commission

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	)	Docket No. 01-AFC-7C
Amendment to the Application for Certification of	)	
the Russell City Energy Center Project	)	
	)	
	)	

PROOF OF SERVICE

I, Ron O'Connor, declare that on May 16, 2007, I deposited copies of the attached *Project Owner's Status Report #2* in the United States mail in Sacramento, California, with first-class postage thereon fully prepaid and addressed to all parties on the attached service list.

I declare under the penalty of perjury that the foregoing is true and correct.

Ron O'Connor

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01-AFC-7C

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