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01-AFC-7C	
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September 14, 2007

Commissioner John Geesman, Presiding Member Siting Committee
Commissioner Jeffrey Byron, Associate Member Siting Committee
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Dear Commissioners:

At the September 12, 2007 Business Meeting of the California Energy Commission ("Commission"), the Commission voted to continue to the September 26 meeting its consideration of the Presiding Members Proposed Decision ("PMPD") on Amendment #1 for the Russell City Energy Center.

I am writing to urge the Commission to take final action on the PMPD at the September 26 Business Meeting.

The project owner has entered into a Power Purchase Agreement ("PPA") with Pacific Gas and Electric Company ("PG&E") that requires us to meet a 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 the summer of 2010. They are also counting on the Commission to process the necessary regulatory approvals in a timely manner.

We filed Amendment #1 on November 17, 2006. At the time we entered into the PPA we expected the Commission's Amendment proceeding to be no longer than 6 months – the length of a new project under the 6 month AFC regulations. We also provided two additional months in our original project schedule as contingency in the event of delays in CEC processing of the Amendment. We have been clear from the outset of this proceeding that we needed a timely decision – no later than June 2007. Unfortunately, almost ten months have elapsed since we filed the Amendment – which means that all of our contingency time in our project schedule for the processing of this Amendment has been consumed.

At this stage of our project schedule, there is no more contingency time for regulatory delays and there are few, if any, means available to compress further a construction schedule that has already seen its reasonable contingencies consumed by delay.

Let me share some specific concerns about the permitting and construction schedule. Based on Calpine's extensive experience in building power plants, a typical and realistic engineering, equipment procurement, construction and commissioning ("EPC") schedule is thirty (30) months from the date notice to proceed is given to the contractor to date of commercial operation. Additionally purchase orders for the long lead time items such as the heat recovery steam generators, which in the ordinary course would have been placed months ago, should be placed no later than the end of September 2007. Because of the large financial commitments and payments that are made to the contractor and to the major equipment suppliers, this notice to the EPC contractor is given at the same time as close of project financing. This means that in order to meet the June 1, 2010 commercial operation date in the PPA, we have a target date to close financing and give notice to the contractor no later than December 1, 2007.

In order to close financing, project lenders require that all permits for the power plant and associated facilities, including the transmission interconnection facilities need to be final and non-appealable. As we have repeatedly pointed out to the commission, the generation tie line needs a CPCN approval from the CPUC. This CPCN process takes three to four months and can not start until after the CEC decision. In addition, the transformer bank at the East Shore Substation must be replaced to accept the full output of the Russell City Energy Center. PG&E has informed us that in order for the bank to be available for plant start-up activities, PG&E must order the transformer bank by October 1, 2007.

In summary, if the CEC decision is issued at the end of September, the earliest the CPCN process can be completed is the end of December 2007 and more likely January 2008. This means that there is already at least a two month delay between having all required permits in hand and the target date of December 1, 2007 to close financing and give notice to the EPC contractor. Any further delay in the CEC decision puts further strain on the schedule and places the commercial operation date at risk.

While we appreciate the Commission's desire to hear from all interested parties, the Commission has more than fulfilled its obligations in this respect. We are compelled to point out that this proceeding has already been delayed for many months for the primary purpose of consultation with the FAA. The Staff has been in consultation with the FAA since January 2007. Staff's Status Report #1, dated February 27, 2007, requested an extension of the Committee's schedule in order to receive input from the FAA. Staff's Status Report #2, dated June 1, 2007, again noted its efforts to secure input from the FAA and proposed a further delay in the schedule to secure the FAA's input. The FAA has communicated in writing to the Commission, by letter of July 18, 2007. The FAA has also received notice of the workshops and evidentiary hearing in this proceeding and has declined to send a representative.

We know that the Commission has made every possible effort to accommodate the views of the FAA. Further, given that the matters regulated by the FAA are outside the scope and jurisdiction of the Commission's regulatory authority, this Amendment proceeding should not be further delayed. To the extent that the matters regulated by the FAA are relevant to

the Commission's CEQA determinations, the law is quite clear that responsible agencies must provide comments within the time period specified by the Lead Agency. It is equally clear that, on the merits, the legal foundations underpinning the PMPD are unassailable. In short, it is time for the Commission to act.

As we have made clear from the outset of this proceeding, the deadlines we face are imminent and real. As we stated at the initial Informational Hearing, in our Status Update #2 and in our letter of May 23, 2007, the greater the delay beyond June 2007, the greater is the risk and difficulty of meeting the June 1, 2010 commercial operation date.

We urge the Commission to take final action on the PMPD at the September 26 Business Meeting. If there is even the slightest question in your mind that the delays in this proceeding have severely impacted the project schedule and that there is a dire need for a final decision on this Amendment on September 26, 2007, please let us know immediately and we will supply whatever additional information is necessary to establish beyond doubt the urgency of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Thomas", written in a cursive style.

Richard L. Thomas
Vice President – Project Development

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

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

PROOF OF SERVICE

I, Karen A. Mitchell, declare that on September 14, 2007, I deposited copies of the attached *Letter to Commissioner John Geesman and Commissioner Jeffrey Byron dated September 14, 2007* 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.


Karen A. Mitchell

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01-AFC-7C

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