

Commissioners Present (via Phone)

Robert B. Weisenmiller, Chair
Karen Douglas
Carla Peterman

Staff Present:

Rob Oglesby, Executive Director
Michael Levy, Chief Counsel
Jennifer Jennings, Public Advisor
Harriet Kallemeyn, Secretariat

Christine Stora
Mary Diaz
Kevin Bell

Also Present: (Via WebEx)

Interested Parties

Lisa Cottle, Winston & Strawn, LLP
Scott Galati, Galati & Blek
Robert Looper, Caithness Energy

Public Comment:

Robert Sarvey
Pat Wolfe
Andy Wilson, California Pilots Association
Manual Alvarez, Southern California Edison

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P R O C E E D I N G S

APRIL 25, 2012

1:04 p.m.

CHAIRMAN WEISENMILLER: Good afternoon.

Let's start the Business Meeting with the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited in unison.)

Okay. Good afternoon. Item 1 will be held to the next business meeting. So let's go to Item 2. Marsh Landing Generating Station Project. Possible approval of a Petition to Amend the Marsh Landing Generating Station Project. Christine Stora.

MS. STORA: Yes, hi. Good afternoon. My name is Christine Stora. I'm the Compliance Project Manager for the Marsh Landing Project. On February 3rd, 2012, Marsh Landing, or GenOn Marsh Landing, LLC, filed a petition with the California Energy Commission to amend the Energy Commission Decision for the Marsh Landing Generation Station Project. Staff prepared an analysis of this proposed change and is recommending approval of the Amended Petition.

The Marsh Landing Generation Project is a 760 megawatt project that was certified by the Energy Commission on August 25th, 2010. The project is located north of the City of Antioch in Contra Costa

1 County and is currently under construction.

2 The primary purpose of this amendment is to
3 incorporate design refinements to the project that have
4 been identified during additional design work that
5 occurred after the Commission's Decision was issued.
6 This additional design work is typical after a project
7 has been approved and the changes are necessary for
8 final design.

9 The primary modifications proposed in this
10 petition are as follows: For the operational needs of
11 the combustion turbine generators, two 8 million
12 British Thermal Units per hour natural gas-fired pre-
13 heaters will replace the two 5 Btu per hour preheaters
14 that were previously approved in the Decision; the
15 water treatment configuration is changing to meet the
16 water quality requirements for the combustion turbine
17 generator evaporative coolers; ultrafiltration will be
18 used to reduce the inlet suspended solids from
19 groundwater prior to using single pass reverse osmosis
20 system.

21 A number of changes are being made to
22 accommodate this, including moving the water treatment
23 system into a new building and the number and size of
24 the water tanks onsite are also being modified. The
25 ammonia system is proposed to have single wall piping

1 instead of double wall piping for a section of the
2 piping between the storage tank and the ammonia
3 injection skids.

4 A slightly modified above ground containment
5 area and underground sump are proposed. The drain will
6 be slightly smaller at 30 inches in diameter. The
7 truck and loading area will have a slightly modified
8 above ground containment area, and the drain will be
9 slightly larger at 30 inches.

10 The tempering air fans will no longer be
11 inside a building and will have silencers housed on the
12 inlet ducts. Each unit will have two 2,000 horsepower
13 single speed fans, both fans will be on the west side
14 of each unit.

15 Staff as reviewed the Amended Petition in all
16 technical areas and is recommending approval of the
17 requested design refinements with Conditions of
18 Certification AQSC7 and Bio 8 as revised in the staff
19 analysis.

20 The preheaters will cause a slight increase
21 in NO_x, VOC, PM10, and 2.5, and CO emissions, but a
22 reduction in SO_x emissions. AQSC7 is being modified to
23 increase the ERC credits to match the new emission
24 levels. The preheater emissions will also result in
25 slightly higher nitrogen deposition at the adjacent

1 Antioch Dunes National Wildlife Refuge, which is
2 habitat to the Lenox Meadowlark Butterfly.

3 Bio8 is being revised to increase the first
4 annual payment to the Antioch Dunes National Wildlife
5 Refuge. Other payments to be made are based on the
6 formula that will change with the project's revised
7 emission values. With recommended mitigation measures,
8 all requested project modifications will continue to
9 comply with all applicable LORS.

10 CHAIRMAN WEISENMILLER: Thank you.

11 Applicant?

12 MS. COTTLE: Yes, thank you. Good afternoon,
13 Commissioners. My name is Lisa Cottle. I represent
14 GenOn Marsh Landing, LLC, the owner of the project.
15 With me is Peter Landreth, he is the Director of
16 Environmental Policy and Associate General Counsel at
17 GenOn Energy, Inc.

18 As described, the Petition before you today
19 asks for certain design refinements that were
20 identified during the final design review for the
21 project. We want to thank staff for reviewing the
22 Petition and for their work and diligence in completing
23 the analysis. We also want to thank you for scheduling
24 us here today at this meeting and ask that you approve
25 the Petition based on staff's recommendations. We're

1 available to answer any questions you might have.

2 CHAIRMAN WEISENMILLER: Thank you. Does
3 anyone else, either in the room or on the phone, want
4 to speak on this issue?

5 Commissioners, any questions or comments for
6 staff or Applicant?

7 COIMMISSIONER DOUGLAS: No questions, just a
8 comment. I've reviewed the proposed Amendment and I
9 think it's not at all unusual that, as projects move
10 into, you know, really planning for construction, that
11 there are changes that come up in that process that
12 need to be reflected in an amendment. So, if there are
13 no questions or comments, I'll move approval of this
14 item.

15 COMMISSIONER PETERMAN: No questions and I'll
16 second.

17 CHAIRMAN WEISENMILLER: Okay. All those in
18 favor?

19 (Ayes.) This item passes unanimously. Thank
20 you.

21 MS. COTTLE: Thank you.

22 CHAIRMAN WEISENMILLER: Item 3. Blythe
23 Energy Project, Phase II (02-AFC-1C). Mary Diaz. A
24 possible approval of Petition to Amend Blythe Energy
25 Project, Phase II, to define the point of electrical

1 interconnection, replace permitted turbines with latest
2 technology, and incorporate fast-start technology.

3 MS. DIAZ: Good afternoon, Commissioners. My
4 name is Mary Diaz and I am the Compliance Project
5 Manager for the Blythe Energy Project, Phase II. With
6 me this morning is Staff Counsel, Kevin Bell, and
7 technical staff is also available if you have
8 questions.

9 The proposed Blythe Energy Project, Phase II,
10 owned by Caithness Blythe II, LLC, was originally
11 licensed in December of 2005 as a 520 megawatt project
12 to be located within the City of Blythe, approximately
13 five miles west of the City Center.

14 On October 23rd, 2009, Caithness filed a
15 Petition to Amend the Blythe II Decision, to identify a
16 new point of electrical interconnection into the
17 proposed Southern California Edison Keim Substation to
18 replace the originally approved turbines that are no
19 longer available with newer Siemens rapid start
20 turbines, to modify the combustion turbine and steam
21 turbine enclosure, to incorporate an auxiliary boiler to
22 improve startup efficiency, to expand the approved
23 cooling tower configuration, and to optimize the
24 project's general arrangement.

25 A Notice of Receipt for the Petition to Amend

1 was mailed to the Blythe II post-certification mail
2 list, docketed, and posted to the Web on November 25th,
3 2009. On January 4th, 2010, Caithness filed the
4 modification to the petition, describing their decision
5 to not use an inlet chiller that would use anhydrous
6 ammonia and thus requesting the deletion of Conditions
7 of Certification HAZ 8, 10 and 11, and Worker Safety 3,
8 all of which pertain to the proposed use of anhydrous
9 ammonia.

10 On February 16th, 2010, staff received
11 supplemental information for water. On April 23rd,
12 2010, staff received supplemental information for
13 transmission system engineering. On October 4th, 2011,
14 staff received supplemental information for traffic and
15 transportation and transmission system engineering.
16 And on March 6th, 2012, staff received supplemental
17 information pertaining to water balance.

18 On March 12th, 2012, staff's analysis of the
19 Petition to Amend was mailed to the interested parties,
20 docketed, and posted to the Web.

21 The Amendment proposes increasing the size of
22 the combustion turbines, the duct burners, the steam
23 turbine, and the cooling tower, and adding an auxiliary
24 boiler to shorten startups.

25 To implement the various changes requested by

1 the Petition, the Air Quality Conditions of
2 Certification needed to be changed to reflect new
3 emission rates and the decrease in all annual criteria
4 air emissions, except for volatile organic compound
5 emissions. The changes also modify reporting
6 requirements for the emergency fire pump. The changes
7 to Conditions AQS1 to AQS5 bring the project's
8 Construction CEQA Mitigation up to current Energy
9 Commission Construction Mitigation Requirements.

10 The changes to Conditions AQSC6 to AQSC9
11 reflect changes in reporting requirements and update
12 offset quantities. District conditions from the Final
13 Determination of Compliance, Conditions AQ1 to AQ54,
14 were modified, and AQ55 to AQ76 were added as a result
15 of the new equipment.

16 Hazardous Materials Management staff
17 recommends the deletion of Conditions of Certification
18 HAZ 8, HAZ 10, and HAZ 11. Staff concurred with the
19 deletion of these three conditions as they became
20 unnecessary now that anhydrous ammonia will not be
21 stored or used on the site.

22 Condition HAZ 12 has been added in accordance
23 with recommendations made by the United States Chemical
24 Safety and Hazard Board to make changes to their
25 respective regulations, codes, and guidance, to require

1 the use of inherently safer alternatives to natural gas
2 flows for the purposes of pipe cleaning.

3 Water Resource staff recommends the addition
4 of Condition Water Resources 4 to impose a limit that
5 reduces the limit from the original Commission
6 Decision, and helps to ensure that only water necessary
7 to operate the project will be used.

8 The addition of Condition Water Resources 5,
9 6 and 7 are for measuring and monitoring water use to
10 ensure compliance.

11 Transmission System Engineering staff
12 recommends changes to Conditions of Certification TSE1
13 through TSE9 to correspond to the updated
14 interconnection information regarding the Keim
15 Substation, the Desert Southwest Transmission line, and
16 the Colorado River Substation.

17 Worker Safety staff recommends the deletion
18 of Worker Safety 3. Staff concurred with the deletion
19 of this condition as it became unnecessary, now that
20 anhydrous ammonia will not be stored or used on the
21 site. Staff also recommends the addition of Worker
22 Safety 6 to require that additional best control
23 methods be implemented to protect site workers from
24 potentially contracting Valley Fever during site
25 grading activities.

1 Staff is determined that, with the adoption
2 of the proposed new and revised Conditions of
3 Certification in the technical areas of Air Quality,
4 Hazardous Materials Management, Water Resources,
5 Transmission System Engineering, and Worker Safety, the
6 potential CEQA impacts of the proposed project changes
7 would be less than significant, and that adoption of
8 the proposed modifications will not result in any
9 significant impacts to the environment.

10 Before concluding, Air Quality staff has
11 proposed an additional change to Air Quality Condition
12 AQSC5, and this was just brought to my attention about
13 a half hour before this meeting, and in AQSC5, second
14 paragraph, staff is recommending deleting the words
15 "diesel emission control strategy verify DSC for in-use
16 vehicles," and replacing it with "regulation for in-use
17 off-road diesel fleets."

18 And in Item A, deleting "diesel emission
19 control strategy verified DSC for in-use off-road
20 vehicles" and replacing it with "regulation for in-use
21 off-road diesel fleets, California Code of Regulations
22 Title 13, Article 4.8, Chapter 9, Section 2449."

23 And in Item B, third line down, it reads, "To
24 meet the highest level of emissions reduction available
25 for the engine family of the equipment, each piece of

1 diesel-powered equipment shall be powered by a Tier 4
2 engine, or...," and they're adding "or" and striking out
3 "a" tier 4i engine, so they're changing the "a" to an
4 "or" in that. And so that is the extent -- and the
5 reason for those changes are that the diesel emission
6 control strategy is a diesel exhaust retrofit device
7 used to comply with the Air Resources Board Diesel
8 Regulations, and it's one option for complying with the
9 Regulations, and it's not itself a program or
10 requirement.

11 And with that, at this time staff recommends
12 approval of the Petition.

13 CHAIRMAN WEISENMILLER: Applicant?

14 MR. LOOPER: Robert Looper here from
15 Caithness Energy.

16 MR. GALATI: Scott Galati representing
17 Caithness Blythe II. Thank you, Commissioners, for
18 having a special meeting to be able to accommodate this
19 matter. We believe that the Petition fully
20 characterizes the changes that we want to make. We
21 believe that it acknowledges the benefits of the fast
22 start technology that we'll be doing, it also updates
23 in accordance with the way transmission has been
24 changing out there. We thank staff for getting the
25 petition done and the analysis done. We agree with all

1 the changes to -- the proposed changes to the
2 Conditions of Certification, and the conclusions in
3 staff's petition, including the condition that was just
4 read into the record. Staff shared that with us a few
5 minutes ago and we think it does provide clarification
6 as to how we need to comply with that, by citing the
7 regulation. So, with that, we would ask that you
8 approve the Petition and we're here to answer any
9 questions.

10 CHAIRMAN WEISENMILLER: Thank you. First, we
11 have a couple of speakers on the phone. I don't know if
12 there's anyone in the room? Mr. Sarvey, do you want to
13 start?

14 MR. SARVEY: Yes, thank you, Commissioners.
15 I submitted comments on this extension request on
16 December 6th, 2011 and, when you had the December 14th,
17 2011 Business Meeting, I apologize, I was in the
18 hospital, I was unable to call in. I've reviewed the
19 transcript of the December 14th Business Meeting and I
20 found that my December 6th, 2011 comments had not been
21 addressed. And I've also reviewed staff's latest
22 analysis and they fail to address the comments that I
23 made, as well.

24 Staff's latest analysis, like their previous
25 analysis, fails to identify any reasons outside the

1 control of the Applicant that would prevent the
2 construction of the facility. The Applicant points to
3 the Interconnection Agreement as a factor outside their
4 control, but staff strongly disagrees. In fact,
5 staff's entire analysis fails to identify any actions
6 by the Applicant that would represent good cause.
7 Staff's only basis for supporting this extension is the
8 extensive amount of work that staff has dedicated to
9 this project.

10 Section 1720.3 requires a showing of good
11 cause by the Applicant, not the staff. And according
12 to this record, no such good cause showing exists.
13 Staff's analysis notes that circumstances have changed
14 since the original project was approved in 2005 that
15 really warrant the filing of a new AFC. Additional
16 solar energy projects like the Blythe Solar Project
17 have materially changed circumstances in the project
18 area, particularly impacts to the Blythe Airport.
19 Thermal plumes and specular glare from these solar
20 projects, in combination with Blythe I and Blythe II
21 power projects, cannot be mitigated as the CEC's Blythe
22 Solar Project Final Decision states on page 474.
23 Therefore, in order to provide an extension request at
24 this time, you need to make override findings of public
25 convenience and necessity.

1 As a precedent for a natural gas-fired power
2 plant, a five-year extension is essentially
3 unprecedented. And the reasons for that are obvious.
4 Blythe II would be an example of why you would not
5 provide a five-year extension. The project was
6 licensed in 2005, and the turbines to the project are
7 now obsolete. All combined cycle power plants that are
8 proposed now are fast start units. And there are a
9 significant number of new power projects in the area
10 that, as I mentioned earlier, now create a significant
11 cumulative impact that cannot be mitigated.

12 And I also agree with staff's opinion that
13 the project's location may serve to limit Blythe II's
14 ability to integrate renewable resources. And also, as
15 staff's analysis states, the project is not in an area
16 that meets capacity and will essentially act as an
17 import to California load centers.

18 One more reason why I think you should not
19 grant this extension and should require the filing of a
20 new ASC is that this particular project, itself, has
21 gone on since 2005, many years, and it has eaten up a
22 lot of ratepayer money and staff time. Now, if this
23 was a new AFC for a 570 megawatt power plant, they
24 would be providing \$545,775 to evaluate this; as a
25 compliance issue, they would pay a fee of \$25,508. So

1 from a ratepayer standpoint, I would urge you to
2 require a new AFC filing and deny the petition. Thank
3 you.

4 CHAIRMAN WEISENMILLER: Okay, thank you.
5 Actually, we were dealing with Item A, not B at this
6 moment, but we will consider your comments when we get
7 to Item B.

8 MR. SARVEY: Thank you.

9 CHAIRMAN WEISENMILLER: So now we have two
10 more speakers on the phone. And first, for
11 clarification, Mr. Wolfe, are you addressing Item A or
12 B?

13 MR. WOLFE: Uh, I'm not sure.

14 CHAIRMAN WEISENMILLER: A is the conditions
15 and B is the extension.

16 MR. WOLFE: B.

17 CHAIRMAN WEISENMILLER: Okay, so, Mr. Wilson,
18 again, the same question, are you addressing the
19 amendments or the petition for an extension?

20 MR. WILSON: A and B because A affects
21 aviation and B affects aviation.

22 CHAIRMAN WEISENMILLER: Okay, then why don't
23 you address Item A at this moment?

24 MR. WILSON: All right. Currently, the
25 situation is that the Applicant is proposing to change

1 the gas turbine. Typically --

2 CHAIRMAN WEISENMILLER: I think you have --
3 excuse me, you're having a feedback loop, so could you
4 get off the speaker phone?

5 MR. WILSON: Off the speaker phone. I'm not
6 on the speaker phone.

7 CHAIRMAN WEISENMILLER: That was our guess.

8 MR. WILSON: Can you hear me?

9 CHAIRMAN WEISENMILLER: Yes, and no feedback,
10 so thank you.

11 MR. WILSON: Okay. I had a boom mic, so I'll
12 try the phone direct. All right, I'll begin over. My
13 name is Andy Wilson. I'm a Director at Large for
14 California Pilots Association, also known as CalPilots.
15 In Item A, the Applicant is proposing to change the gas
16 turbines out. Typically, in and around airports, a
17 plume velocity is calculated. Also, the location of
18 Blythe II is close to, in proximity to, Blythe I. So
19 we will now have multiple plumes and a broader circular
20 no fly zone based on the current Aviation Aeronautical
21 Chart that says avoid over flight to the power plant.

22 Also, so currently there was no study on
23 exactly how this second Blythe II would affect the
24 airport and the airport patterns.

25 The next item is that, in the original final

1 decision, the pattern -- there was a recommended
2 pattern change and I believe that has been eliminated
3 in these documents, or most recent documents. So on
4 page 169 of the original document, the Final Decision,
5 a remark is placed -- these are the mitigations -- Item
6 1, a re-mark is placed on the airport's automated
7 surface observation system, ASOS, or equivalent
8 broadcast, advising pilots to avoid low altitude direct
9 over flight of the power plant, and that should be in.

10 Item 2, the VFR traffic pattern to Runway 26
11 has changed from left-hand turns to right-hand turns,
12 and Item 3 has to remain, as well, a Runway other than
13 Runway 26 is designated as primary Calm Wind Runway.
14 That's the condition of Trans 9 on page 169. So those
15 items have to remain in, but it appears they've been
16 taken out.

17 The other issue is, when the Riverside ALUC,
18 Airport Land Use Commission, voted and recommended
19 against Blythe II, the City of Blythe, who was the
20 airport manager at that particular time, overrode that
21 decision, as stated in the Final Decision. However, it
22 should be noted that the ownership, it remains the same
23 for the Blythe Airport, however, the City of Blythe is
24 no longer the manager. So now we have a situation
25 where this new configuration, new gas turbines, Blythe

1 II added to Blythe I, has not been brought before the
2 Airport Land Use Commission. And we recommend that
3 would be done as soon as possible.

4 The last item that I have is that it appears
5 that this is the second go around of a five-year
6 license to construct --

7 CHAIRMAN WEISENMILLER: Okay, that is Item B,
8 not A.

9 MR. WILSON: Okay, I'll reserve that for B,
10 then. I'm done with Item A.

11 CHAIRMAN WEISENMILLER: Yeah. So, staff, do
12 you want to respond?

13 MS. DIAZ: My only comment is that the Trans
14 9 condition still applies, the changed conditions that
15 are in this amendment are changes to -- I'm sorry,
16 those that were in the original Decision and the
17 conditions that have not been changed still apply from
18 the original Decision, so Trans 9 is still in there
19 with those items that were noted.

20 CHAIRMAN WEISENMILLER: Applicant?

21 MR. GALATI: Yes. I would remind the
22 Commission that what we have here is the Amendment
23 before you, and so it's hard to just think about an
24 amendment if you don't think about the prior
25 proceeding. And in the prior proceeding, there was a

1 full and fair evidentiary hearing about airport
2 impacts, and what the Commission decided then, staff
3 recommended, and the Applicant agreed, was to the
4 specific mitigation measures, that the Commission found
5 with those mitigation measures the project would have
6 no effect on the airport. For example, if the cooling
7 tower was moved, the turbines and the stacks were
8 moved, and this mitigation was in place. And so it's
9 the actual location of those emission sources relative
10 to the landing zone for Runway 26 that was the issue.
11 They're out of Runway 26. With respect to Mr. Sarvey's
12 comment about, since the Blythe Solar Power Project
13 found the cumulative impact in need of finding an
14 override, if I could remember, and at least two members
15 of the committee are on that and might remember, you
16 assumed that the mitigation for Blythe II was in place.
17 Nothing has changed, the mitigation in Blythe II is
18 exactly as it was, and if the Commission has time, I'd
19 love you to go back and read the cross-examination of
20 Blythe II, as I would still say then, as I do now, that
21 mitigation is unnecessary. We're doing it anyway. The
22 complaints that happen on Blythe I and Blythe II were
23 unfounded, the evidentiary record shows that, but this
24 Applicant, who permitted Blythe I, and this Applicant
25 who permitted Blythe II, agreed to work with the

1 Commission and accept these mitigation. So the idea
2 that this is a second bite at the apple, or that the
3 Applicant has done something in a way to affect the
4 airport basically denies all of the work that we've
5 done early up to that stage.

6 In addition to the Airport Land Use
7 Commission needing to approve this project again, the
8 Airport Land Use Commission has jurisdiction over when
9 a land use decision is made. The land use decision has
10 been made on this project this is a place for a power
11 plant. And the question for staff is, and they've
12 already made that conclusion, as we did, nothing
13 changing out these turbines requires a different land
14 use decision. It requires the Energy Commission to
15 make a decision, not the Airport Land Use Commission.
16 So we think that we've addressed all of those issues,
17 there are no impacts that you need to be worried about
18 with the Airport.

19 CHAIRMAN WEISENMILLER: Thank you.

20 Commissioners, any questions or comments?

21 COMMISSIONER DOUGLAS: Well, certainly,
22 Chairman Weisenmiller, you and I were on the Blythe
23 Solar case and, so, you probably remember as clearly as
24 I do that we assumed -- we looked at the cumulative
25 impacts of, you know, all of the power plant proposals

1 in the area, and we looked particularly at the Blythe
2 II project as being one that was reasonably
3 foreseeable, and so I do think that, as we -- when we
4 considered that project, we also very clearly
5 considered and understood the probability of there
6 being other projects in the vicinity, as well. I've
7 reviewed the amendment fairly thoroughly, I think that
8 we have heard concerns about the airport and hopefully
9 the information that the conditions referenced, in
10 fact, will apply, will be at least somewhat helpful, to
11 our commenter on the airport. It was a fairly thorough
12 review conducted by staff and, frankly, some pretty
13 significant changes in part because of the age of the
14 project that necessitated those changes. I think
15 staff's review is thorough and, you know, in terms of
16 looking at Item 3A, I think we'll have some discussion
17 on 3B, but I think that on 3A, I'm prepared to
18 recommend this for your approval. So if there are no
19 other comments, or even if there are, I will move Item
20 3A.

21 COMMISSIONER PETERMAN: I will second.

22 CHAIRMAN WEISENMILLER: Okay, all those in
23 favor on 3A?

24 (Ayes.) Item 3A passes unanimously. Let's
25 turn our attention now to 3B. Staff?

1 MS. DIAZ: Caithness requested a three-year
2 extension within the body of the original 2009 Petition
3 to Amend, however, since at that time, more time is
4 needed to complete the analysis, on October 1st, 2010,
5 Caithness filed a petition to extend the deadline of
6 startup construction for one year in order to give both
7 parties time to complete the 2009 Amendment. On
8 December 1st, 2010, the Energy Commission approved the
9 request for the one-year extension from December 14th,
10 2010, to December 14th, 2011. On October 12th, 2011,
11 Caithness filed a Petition to Extend this deadline for
12 the start of construction for five years from December
13 14th, 2011 to December 14th, 2016. A Notice of Receipt
14 for the Petition to Extend was mailed to the Blythe II
15 post-certification mail list, docketed, and posted to the
16 Web on October 21st, 2011.

17 On November 4th, 2011, staff's original
18 analysis of the Petition to Extend was mailed to
19 interested parties, docketed, and posted to the Web.
20 In this analysis, staff notes its concerns regarding
21 the project's plans for interconnection, however,
22 Caithness remains committed to continue its efforts to
23 develop the project as outlined in the Declaration of
24 Robert Looper, Senior Vice President of Caithness,
25 filed on November 8th, 2011.

1 On December 2nd, 2011, Caithness filed and
2 docketed their response to staff's original analysis on
3 the five-year extension request. Also on December 2nd,
4 2011, comments on the extension request were filed by
5 Robert Sarvey. And on December 14th, 2011, a letter
6 from the City of Blythe was received in support of the
7 project.

8 At the December 14th, 2011 Business Meeting,
9 Caithness asked the Commission for a short extension
10 for staff to complete its analysis of the 2009 Petition
11 to Amend, so that both the Petition to Amend and the
12 five-year extension request could both be heard at the
13 same Business Meeting. At that time, the Commission
14 granted a five-month extension for December 14th, 2011,
15 to May 14th, 2012.

16 On March 12th, 2012, a revised staff analysis
17 for the extension request was mailed to the Blythe II
18 post-certification mail list, docketed, and posted to
19 the Web. No written comments were received.

20 The Petition states that a five-year
21 extension would allow Blythe II to be responsive to
22 requests for proposal requirements that would allow for
23 delivery as late as 2018. The Petition also states
24 that a five-year extension will keep Blythe II in a
25 position to be responsive to the needs of CAISO and

1 local utilities, and that a three-year extension would
2 not provide enough time for Blythe II to effectively
3 re-bid the project and secure a Power Purchase
4 Agreement.

5 Given that the information provided by the
6 Applicant has allowed staff to complete its analysis of
7 the proposed project changes and recommend approval of
8 the Petition to Amend, and Caithness is still committed
9 to continuing its efforts to build this project, staff
10 supports the Petition to extend the deadline to
11 commence construction for an additional five years from
12 May 14th, 2012 to May 14th, 2017.

13 CHAIRMAN WEISENMILLER: Thank you.
14 Applicant?

15 MR. GALATI: We would ask the Commission to
16 approve the Petition for extension of the construction
17 deadline for five years, and I'd like to make a couple
18 of points.

19 I was sitting in this chair in 2008 when we
20 had Tesla, and one of the reasons Tesla did not get a
21 petition for extension is the Commission did not know
22 what project they were going to be approving. And, in
23 fact, the Commission was very very concerned that CEQA
24 had not been updated, that the project has not been
25 brought up to standards. I urge you to look at the

1 analysis that staff did because the project before you
2 know, I believe, looks just like an AFC that would be
3 here asking for you to be licensed, because it has been
4 updated. Staff went through every section and updated
5 in accordance with LORS and CEQA impacts the project
6 you see in front of you. It just happened to do it in
7 the form of an amendment and there are some sections
8 that did not change. But staff even updated sections
9 like -- these are our new Standard Construction
10 Conditions in Air Quality -- everything has been
11 updated, including the one that was just read into the
12 record, which happened in the Pio Pico Project, just
13 recently. So what you have before you is what a final
14 decision would be -- a PMPD would be if we had filed an
15 AFC a year ago, that's what we believe. Secondly --
16 therefore, that's why we're asking for five years --
17 secondly, it is really important to understand how
18 difficult it is to predict what is going on in the
19 desert. I stand here before you to tell you that the
20 midpoint substation, which is now the Colorado River
21 Substation, was something we contemplated in 1998 for
22 Blythe I. I'm now seeing it get built. So
23 transmission is difficult and it changes, with the
24 renewable energy things change, there is no -- the
25 public is not served at all by giving an extension less

1 than five years when what you have before you is
2 essentially a license. The reason we're asking for
3 five years is we'd like to build the project tomorrow.
4 We're not sure when the economy will allow us, or when
5 the renewable energy infrastructure is done, that will
6 allow us to deliver what we believe to be some of the
7 most efficient gas turbines into the basin in a
8 location that is accepted by the community, that is
9 right next to an existing power plant, that is next to
10 one of the best places to get natural gas, and has a
11 transmission interconnection through some of the early
12 clusters.

13 Something else to remember when it comes to
14 whether or not the project has been diligent, if we can
15 go back just a little bit, you will see in the Record
16 of Decision -- excuse me, in your decision in the
17 transmission section -- at the time the project was
18 licensed, we were under the old CAISO scheme.

19 Somewhere about two years ago, two and a half years
20 ago, the CAISO went down a path in which they tried to
21 be more efficient, created clusters and transitions,
22 that changed the entire transmission world, it actually
23 was very good for Blythe because, at one point in time,
24 it had a very very high transmission cost, and after
25 the transition clusters were done and the Cluster I and

1 Cluster II studies were done, those have dropped to a
2 very low level, making Blythe a very economic project.
3 The problem is there hasn't been an RFO for natural gas
4 since then, and we think when there was a natural gas
5 RFO, we were in the top five for those projects with
6 the highest transmission costs of anybody, it still is
7 a very good project.

8 So we ask you to show some foresight here and
9 allow our project to be around for five years so that
10 we don't go back to a point where we're chasing our
11 tail if all of a sudden it's very hot and the economy
12 comes back, a project like this is ready to go. So we
13 ask you to approve the extension for five years. We
14 don't believe that you doing that imposes any burden on
15 ratepayers, and we ask you to approve that. Thank you.

16 CHAIRMAN WEISENMILLER: Thank you. Mr.
17 Wolfe.

18 MR. WOLFE: Yes. This is Pat Wolfe. I
19 represent the Blythe Airport, which I used to manage,
20 but don't now, but I still represent it. I've sat here
21 and listened to this conversation and I don't believe
22 it should be approved. The Tesla plant wasn't approved
23 because they didn't give the full and correct
24 information to the Commission, you've got the same
25 thing here. When this was first put in, the criteria

1 we had was they had to change the pattern. Well, the
2 FAA turned that down from the word go. They said, "No,
3 it will not be changed, period." And there was no
4 discussion on it. I don't believe the Commission was
5 ever told that until right here at the end, and now I'm
6 seeing where they're talking about the ASOS. The ASOS
7 has already been turned down by the Government, they
8 will not put it on there, plus the California Air
9 Communications Systems will not allow it either, so you
10 cannot have two automated broadcasts on an airport,
11 which makes it illegal.

12 I don't believe that Caithness is challenging
13 the Commission these facts, you know, the same thing
14 Tesla did, just kind of withhold part of the
15 information, and so they don't know what's going on.
16 Now, this being said, I think it should fall the same
17 way Tesla did, it shouldn't be extended. You're not
18 getting the correct information from your Licensee.
19 Now, it can be fixed, but it has to be fixed pretty
20 much through me. There was letters written to the City
21 informing them of this, the Grand Jury informed the
22 City to have this situation fixed, but he turned him
23 down, but as it stands right now, the plant is still
24 illegal and dangerous, and there's been nothing
25 changed, the criteria was not fulfilled, they did not

1 fulfill the problem with the dangerous landing
2 conditions, I don't care where they move those towers
3 in that area there, it is still underneath the pattern,
4 which makes it dangerous. The Commission asked for the
5 pattern to be changed so it wouldn't be, and the FAA
6 has just flat said no. Several reasons: 1) changing a
7 pattern, itself, is dangerous. But changing the
8 pattern to a right-hand pattern makes Plant 1 more
9 dangerous than it is now, so they said it wasn't going
10 to happen. And I don't believe that the Licensee has
11 informed the Commission of this. That's where it
12 stands. Now, there is a way of doing it, but Caithness
13 has never wanted to try to do it the other way. The
14 City was informed there is a way of fixing it, but
15 nothing ever came by it, even after the Grand Jury
16 ordered them to do it because they know it's dangerous,
17 they've seen it's dangerous. But as far as the license
18 goes, I think it should fall the same with the Tesla
19 plant on the grounds that you haven't been given the
20 full and correct information. And I'll just make this
21 pretty short. That will do it for me. Any questions?

22 CHAIRMAN WEISENMILLER: Thank you. We'll go
23 to everyone and ask for questions. Someone is rattling
24 a lot of paper, could you please mute your phone so we
25 could hear better? It's difficult for the Court

1 Reporter. Okay, Mr. Wilson.

2 MR. WILSON: Yes. Andy Wilson, CalPilots,
3 here. I'd like to bring up two issues that would come
4 under new circumstances. Since this power plant was
5 approved the last time, there has been a new entry in
6 to the FAA Aeronautical Information Manual, and a new
7 section has been added, 7515, which reads: "Avoid
8 flight in the vicinity of thermal plumes, smoke stacks,
9 and cooling towers." Now, this is a very important
10 issue because pilots have been held accountable in
11 court cases. So if a pilot does fly over the power
12 plant and an incident or an accident happens, they
13 could be held legally responsible. The change in
14 circumstance from the current Aeronautical Chart's
15 reading avoid over flight, at that time, when it was
16 originally published, the AIM section was not
17 published. So we have not merely, "Oh, we're going to
18 do it, we'll publish it," but now it goes -- it now
19 emphasizes the fact that a Pilot is now legally
20 responsible to avoid that. So now we have a conflict
21 of pattern, as Mr. Wolfe pointed out, and we now have a
22 conflict on the IFR approaches. So that's the first
23 circumstance.

24 The second circumstance is who is -- who is
25 the sponsor and who is the owner and who is the manager

1 of the Blythe Airport? And we currently now have it
2 all under Riverside County, not the City of Blythe.
3 So, although the City of Blythe may approve it from a
4 land and locale to the City -- location near to the
5 City, the response should be coming from Riverside
6 County, not the City of Blythe. So my last comment is
7 CalPilots request that this power plant be denied.
8 Thank you very much.

9 CHAIRMAN WEISENMILLER: Okay. Thank you.
10 Mr. Sarvey, do you have a brief comment given what
11 you've just heard? I think you at least had the
12 opportunity to hear the staff and the Applicant on this
13 topic.

14 MR. SARVEY: I think I had my time to speak,
15 so I'm fine with --

16 CHAIRMAN WEISENMILLER: Fine, then, thank
17 you. Staff, do you have comments, responses?

18 MR. BELL: Yes, Kevin Bell, Senior Staff
19 Counsel. First, I'll address Mr. Wolfe's comments. He
20 mentioned something about an issue with the ASOS
21 system. That is not before us with Blythe II. There
22 was an issue with Blythe I with respect to the ASOS,
23 which was operating at the power plant site, that if
24 you can help me out, what does ASOS stand for? Do you
25 have that? I thought Scott would remember that.

1 MR. GALATI: I can't remember that --

2 MR. BELL: It's an automated system that
3 gives information to approaching pilots. At the time,
4 we looked at having installed a secondary system which
5 was a Super AWOS system, which is similar to the ASOS,
6 only it has more bells and whistles and does more. At
7 the time, the FAA wouldn't allow both of those systems
8 to be maintained at the airport. In fact, the SAA --
9 sorry -- the FAA found that the addition of the Notice
10 to Airmen to avoid over flight was sufficient
11 mitigation for this facility. And, in fact, I believe
12 that's what will happen with Blythe II, once it's
13 constructed. So the ASOS vs. Super AWOS issue never
14 came before us with Blythe II, that was a Blythe I
15 issue. But I appreciate Mr. Wolfe's comments to that
16 effect.

17 Mr. Wilson also brought up the avoid over
18 flight directive to airmen. The FAA has required that
19 if there's a power plant in the vicinity of an airport,
20 that the Aeronautical Charts for each airport have
21 Notice to Air Men, a NOTAM, directing them to avoid
22 over flight of any thermal plumes for the power plant.
23 And as I said, the FAA considers that to be sufficient
24 and staff agrees with that, as well.

25 I want to address Mr. Sarvey's comments. Mr.

1 Sarvey did file comments to our original staff analysis
2 back in December. Staff did not file a written
3 response to those. We do want to thank Mr. Sarvey for
4 his comments, and this is one of those rare occasions
5 where we are almost 100 percent in agreement. In fact,
6 Mr. Sarvey pulled most of his comments from our
7 analysis, itself. Mr. Sarvey agrees with staff, with
8 all of staff's conclusions with respect to the petition
9 to extend the deadline to commence construction of the
10 facility from our previous analysis. But the one thing
11 Mr. Sarvey did not do is he did not look at the other
12 factors, the balancing factors, which previously had
13 staff sitting on the fence as to whether or not to
14 recommend approval, which has since pushed staff over
15 the edge. And we don't know whether or not he
16 disagrees with those factors or not, which includes the
17 project owner's willingness and seeming enthusiasm to
18 go forward with the project, with the time and money
19 and efforts that have been extended by the project and
20 by staff to keep this project going and keep it on the
21 table. We don't know what his thoughts are about those
22 because he hasn't mentioned those factors in his
23 previous comments. But he does agree with staff, with
24 all of staff's analysis and all of our conclusions that
25 were to the contrary. Now, a petition to extend

1 deadline to commence construction, 1720.3, is not
2 necessarily a CEQA-type analysis, it's a balancing
3 analysis. It's a finding of good cause. And to
4 determine whether or not there's good cause, there are
5 several factors that the Commission has previously
6 applied in other matters, starting with Tesla, and some
7 of those include, as you know, just briefly, diligence,
8 another one is factors outside the project owner's
9 control that have prevented the start of construction,
10 a third one is the comparison of the amount of time and
11 resources that would have to be spent in processing any
12 required amendments to the project if such an extension
13 is granted vs. amount of time and resources that would
14 be spent in processing a new AFC if the extension is
15 denied. Now, Mr. Sarvey's comments are right on point,
16 of course, because they were our comments, he agrees
17 with staff's analysis and staff's conclusions with
18 respect to one side of the balancing analysis, but he
19 never applied any factors to the other side of the
20 balancing analysis, which is where staff eventually
21 came up with, on weight of the two sides, on the side
22 of recommending that the license be extended. Again,
23 we want to thank Mr. Sarvey for his continued
24 participation in our proceedings and we always look
25 forward to hearing more from him. He did say one other

1 thing, however, that is new, that we haven't heard
2 before today on the phone, which is that he believes
3 that override findings would be required to obtain a
4 CPCN for this new facility. Staff is unaware of any
5 legal requirement for override findings for a
6 certificate of public convenience and necessity, that's
7 really not a part of this analysis, it's really not a
8 part of this amendment proceeding.

9 CHAIRMAN WEISENMILLER: Applicant?

10 MR. GALATI: I'll turn this over to Robert
11 Looper.

12 MR. LOOPER: Thank you. First, I just want
13 to thank the Commission and the staff for the analysis,
14 it has been a long road on Blythe. And I want to, I
15 guess, reinvigorate our commitment from Caithness.
16 When I started on this project for Blythe I, it was the
17 very first gas-fired project from scratch that
18 Caithness had done, yet they were owning and operating
19 1,100 megawatts of renewable resources back in 1997.
20 And it was one of the largest renewable energy
21 companies in the State of California, geothermal, lots
22 of wind, parts of the solar plants out at SEGS, and we
23 have embarked on the Blythe project and one of the
24 first three projects that went through the Commission
25 in the gas-fired, and got that project built, and went

1 on to Blythe II. Caithness now is completing the
2 construction of one of the largest wind projects, the
3 Shepherds Flat Project, delivering a tremendous amount
4 of renewable power up from Oregon in California. It
5 remains committed on all aspects of the energy markets
6 and Blythe II is one of those. The Blythe II project,
7 in my opinion, starting with Blythe I, pioneered the
8 entire what we call the Eastern Riverside block of
9 power to the Grid. We pioneered the Western Devers
10 upgrades which are now implemented and approved. We
11 pioneered Midpoint, which was opposed by everybody.
12 And now is going to be the major collector of renewable
13 power, maybe in all of Southern California. And it was
14 all to try to forge interconnect that would be viable
15 for the Blythe II power plant, that would meet the
16 requirements of Southern California Edison and the
17 CAISO Grid. And we spent extensive amount of time with
18 staff and the CAISO and folks on designing Blythe II
19 with state-of-the-art gas-fired rapid response turbines
20 to meet the requirements of regulation, Reg Up, Reg
21 Down, all of the attributes that are going to be
22 required in the developing markets in California over
23 the next five or 10 years we continue to grow and
24 integrate all this renewable power, especially in the
25 Eastern Riverside block. This plant is designed around

1 the needs of the CAISO and Edison to meet those
2 demands. And we're committed, and it was not for our
3 lack of commitment, that we could not get our
4 interconnection done, it is a very difficult process.
5 We remain one of the only projects in the serial queue
6 that, although we were tendered and signed in LGIA in
7 November of 2009, it was not signed by Edison, it was
8 pulled back, and it was reconfigured for realistic
9 construction timeframes for Colorado River Station, Red
10 Bluff, and the 230 and the 500 KV upgrades necessary,
11 in that part of the county. Without Colorado River
12 Station, Blythe II can't integrate; until it's done, it
13 can't interconnect. And so they were updating the
14 costs and the numbers, it was nothing that we could do
15 as the Applicant to accelerate. And without that LGIA,
16 we don't have a project that's viable for a Power
17 Purchase Agreement. And so we remain committed. We
18 think that we've got everything that we need now to be
19 the best and brightest combined cycle project in
20 California, we're waiting for an opportunity to now
21 build that project, and we really appreciate your
22 consideration on the five-year extension.

23 CHAIRMAN WEISENMILLER: Thank you. I have
24 one follow-up. Obviously, we've been trying to track
25 with Edison exactly where the transmission work is.

1 What is the current estimate for the online date for
2 the Colorado River Sub?

3 MR. LOOPER: The current estimate is
4 beginning of fourth quarter of 2013. And the breaker
5 position that Blythe II has in the Colorado River
6 Substation, the 500 KV breaker position, and we have
7 provided them a in-service date of the first quarter of
8 2016, on that basis.

9 COMMISSIONER DOUGLAS: I wanted to ask a
10 couple of questions, as well. Let me start with one
11 question raised by the commenters that I didn't hear
12 addressed by staff or Applicant, and I don't remember
13 which commenter it was who said something about the FAA
14 rejecting the pattern change for the aircraft. Could
15 you give us some more detail about that?

16 MR. GALATI: I don't believe that the FAA has
17 rejected any pattern change. Blythe II has not sought
18 that pattern change because it's a prior to
19 construction commitment. Why would we have that now if
20 the project is not going to be built, or is not being
21 built? So we will get that prior to construction. I
22 would also tell you, though, that we did file with FAA
23 to update our forms for the heights of our facilities
24 and they approved that as the project not providing any
25 obstruction.

1 COMMISSIONER DOUGLAS: Staff, anything to
2 add?

3 MR. BELL: No, staff is unaware of any -- we
4 haven't been involved in any activity regarding a
5 change in landing patterns for either Blythe I or
6 Blythe II in the past several years. So, no, I'm not
7 aware of that.

8 COMMISSIONER DOUGLAS: Okay, thank you. That
9 was a helpful clarification. Let's see, I wanted to
10 say a few things about Tesla and how I see it applying
11 in this case, you know, obviously I was, just as Mr.
12 Galati was in that seat on Tesla, I think I might have
13 been in this very one in 2008 when -- and I was on the
14 committee that made the recommendation to the
15 Commission that we not go forward with the Tesla
16 Amendment. And I think that Mr. Galati's recollection
17 tracks very closely with mine. One of the issues that,
18 at least from my point of view, was impossible to see
19 through ultimately with the Tesla request, extension
20 request, was that it was the situation where the
21 Applicant wanted a five-year extension in order to
22 start working on an amendment, and from where we sat,
23 we did not really have any idea beyond what we were
24 told by the Applicant about their plans for the
25 amendment that they would begin to seek after getting

1 an extension, what the project that we were being asked
2 to extend was ultimately going to look like. Of
3 course, the potential for changed circumstances with
4 long extensions of projects that have already gotten
5 extensions is a factor. The fact that in Tesla, staff
6 would have had to essentially start over with an
7 analysis that looked very much like an AFC analysis for
8 a project that was not very fully fleshed out, at least
9 we didn't know very much about it, was a strong factor
10 and one that's really not present here because, if one
11 thing is uncontroversial today, it is that the
12 Applicant has been diligent in pursuing an amendment
13 that would bring us to the point where we are
14 considering both the extension and the amendment on the
15 same day. I tend to also be appreciative of staff's
16 analysis in this case because I think staff did a very
17 good job of identifying factors, kind of both for
18 extension and factors that might not weigh in favor of
19 an extension, and they provided their assessment to us
20 of how they thought those factors weighed and, you
21 know, I might have some amendments to that, but I found
22 their analysis very helpful.

23 I wanted to ask the Applicant to tell us more
24 about why you think you absolutely need a five-year
25 extension vs. what could you do with three years, or

1 what could you do with two years, or what could you do
2 with four years. Because, you know, from where I sit,
3 at least, I'm supportive of providing an extension, you
4 know. I wouldn't want to say, "Oh, yeah, let's get
5 your Amendment ready," but, you know, "We'll approve
6 the amendment and not approve the extension." You
7 know, that doesn't -- if the factors weighed very
8 differently, of course I would be willing to go there.
9 But looking at where we are today, I'm supportive of an
10 extension. I'm not sold on five years, so I'd love to
11 hear from you about that.

12 COMMISSIONER PETERMAN: And this is
13 Commissioner Peterman. Before you answer that, I have
14 a question that relates, so it would probably be good
15 to answer it together. Staff, in your analysis you
16 note that in November we heard from the Applicant about
17 the steps that they are taking, that they have taken,
18 to develop the project and work towards project
19 development, and so in your response to Commissioner
20 Douglas, I would appreciate you just reiterating some
21 of those steps and also talk about what steps you've
22 taken in the last few months, and whether those would
23 allow for a shorter time extension. Thanks.

24 MR. GALATI: Well, first I'd like to say
25 about the five years is, again, we worked with staff

1 very well to bring to you an amendment that looks like
2 an AFC. I believe that this, if we had filed an
3 Application in 2009 for an AFC for the Blythe II
4 project, what you would see is conditions that look
5 just like what you have before you. So, from a five-
6 year perspective, there is no need to update CEQA or
7 changes, if there are any changes, as you go to
8 construction, just like Marsh Landing just did, we'd be
9 before you and you'd be updating it based on final
10 design. We can never really do that. But what this
11 Applicant did was try to design this project in a
12 situation that would meet the market, what we think is
13 necessary for the next five years, and therefore we
14 think that, from a five-year perspective, there's no
15 real reason other than maybe -- there's no reason to
16 limit it to less than five years from a impact
17 perspective, or a compliance with LORS perspective,
18 than you do with any other project. And then I'll turn
19 it over to Mr. Looper to describe why we need five
20 years and what steps have been taken.

21 COMMISSIONER DOUGLAS: Let me ask Mr. Galati
22 a follow-up question just on what you said before you
23 handed over -- you've made the argument a couple times
24 that you could have filed a new AFC and, so, we should
25 think about this as if it were an AFC, because it's

1 substantially like an AFC. And there's some logic to
2 that, but at the same time, of course, you could have
3 filed a new AFC and we don't really know the counter-
4 factual in terms of if we had treated this as a new
5 project and we had done the amendment over, or done a
6 new AFC, you know, you would be sitting here with a
7 project before us and you would, of course, be
8 guaranteed five years, but you might have paid a higher
9 filing fee, and you might have, in fact, found that
10 there were different conditions. And so, I just want
11 to give you a chance to make your analogy stick because
12 it doesn't quite for me, because, you know, I think you
13 went the amendment path, I don't have anything against
14 that, but I think that is different than, you know,
15 being here with an AFC.

16 MR. GALATI: Well, I would draw you to what
17 the Commission finds at the end of a project, they find
18 that all impacts have been mitigated to less than
19 significant levels, and that the project will comply
20 with all existing LORS. And I believe that your staff
21 just said that to you about this project as changed.
22 And so that's why I make the connection, that it's the
23 same findings the Commission would be making if you
24 were an AFC. If it were some different standard to get
25 an amendment, if it were something that says, you know,

1 we're not going to look at something, whatever, but
2 your staff did look at everything that changed, and
3 then updated it so that they could present to you
4 evidence that, in fact, we make those two findings.
5 So, in my mind, if you can make these two findings
6 today, based on what you have in front of you, that
7 would be the same two findings you would be making on
8 an AFC. And we did update everything that was
9 necessary to update. So that's how I think, in my
10 mind, how the analogy sticks because you're making the
11 same findings.

12 MR. LOOPER: I might give you an example that
13 I've had to give sitting at the table of Caithness
14 owners regarding this project, in terms of where it
15 stands and, you know, what's our best case, what's our
16 worst case type of scenario. Development is a
17 difficult business and not having an RFO through the
18 CPUC that is approved for all source for gas, and
19 without having the capacity markets that were promised
20 as part of MRTU, that would have allowed Blythe II to
21 go forward like Blythe I did, which went forward
22 actually as a merchant plant, I don't think people
23 remember that, but Blythe I was built as a merchant
24 plant, and then three years entered into a long term
25 PPA. So let me give you the best case scenario in

1 terms of the quickest on line we can do. The quickest
2 would be that we would be successful in a third quarter
3 2013 all source RFO from which they would short list in
4 the first quarter of 2014, select mid-2014, and about
5 an eight-month CPUC process approval for the PPA, which
6 would put you about, you know, first quarter, the
7 second quarter of 2015, at which point you would have
8 an approved PPA that you could move forward with to go
9 to financing. It would take about six months to
10 finance this project, which puts us basically at the
11 beginning of 2016 for construction. That is probably
12 the best case scenario for Blythe II without a capacity
13 market or something else changing in terms of another
14 type of load serving entity off taker that's non-
15 traditional. And, of course, we are seeking all those
16 types of markets.

17 The worst case scenario there is that they
18 don't come out with an all source RFO and the markets
19 don't develop in 2013, and it's 2014, and the process
20 gets appealed and it goes to the CPUC, and there's
21 extensions, and it's like some of our solar contracts;
22 we've been in now a public advice letter and we're two
23 years into approval of a PPA. And this pushes this
24 project to 2019. And so, when I give these types of
25 scenarios, which isn't a good one for people who have a

1 lot invested in this project, they look and they say,
2 "Well, what are you going to get with this new process
3 out of the CPUC that's going to give us something that
4 we can have to go forward and build this project?" And
5 so, in that scenario, I'm looking at where we stand
6 today and a five-year extension would serve our needs
7 best. We would hope, quite frankly, Commissioner
8 Douglas, that we didn't need it, you know, we would
9 hope that the markets start to mature. Everybody has
10 been fairly consumed with the renewable, both at the
11 CPUC and here at the Commission, and as that starts to
12 clean up a little bit and get a little bit orderly in
13 its pace, some gas is going to start coming on to the
14 markets and that's what we're looking forward to. So
15 that's why, when I look at the events and our
16 diligence, I mean, we continue to seek -- I don't want
17 you to get the impression that we're sitting on our
18 thumbs waiting for an all source RFO, we are very
19 active in trying to develop capacity markets in the
20 State of California. We are very active with non-
21 traditional off takers. We're very active with the
22 State entities and agencies in terms of creating long
23 term PPA bilateral opportunities that we think would be
24 compatible with renewable out in this area, and we've
25 gotten some interest in through there and we'll

1 continue to work those. But so far we haven't been
2 successful.

3 COMMISSIONER PETERMAN: A clarifying
4 question. Regarding a five-year extension, what has
5 been proposed in the extension through May 2017, but
6 initially it was -- I guess at the time -- we had a
7 decision December 14th, 2011, so why not a five-year
8 with December 14th as the date vs. the May date that
9 we're considering now?

10 MR. LOOPER: Scott probably wants to answer
11 that, but I'm going to talk first, I'm not going to let
12 him grab the microphone, then you can grab it from me.
13 I will tell you that, in November of 2009, we thought
14 we had an LGIA and we were moving forward with a
15 project that we could negotiate. And when we filed the
16 amendment, you know, we were thinking that five years
17 from that point would be great. As I sit here before
18 you today, I cannot believe that I don't have a
19 tendered LGIA from the California ISO and Southern
20 California Edison, two years later. And so, quite
21 frankly, it's the critical path on almost everything
22 we're doing -- construction, the network upgrades
23 associated with the project, the long lead timeframes
24 associated with those that give us the deliverability
25 that we need for the RA credits, all the things that

1 are tied into this interconnection are what is driving
2 this project. And so, yeah, we sit here in 2012 and we
3 would get five years, which is what we are asking for,
4 for me in 2017, and I'm hopeful that any month now we
5 get the LGIA kicked out and we can sign that document
6 and can move forward with all the components in hand,
7 including this extension with a project that we can
8 offer up for a PPA.

9 MR. GALATI: And I would like to -- that we
10 are updated from CEQA as of today, so from my
11 perspective, from my perspective when I have looked at,
12 because I remember all of the extensions pre-Tesla,
13 most people only remember the extensions post-Tesla,
14 and it used to be pretty uniform to come here; in fact,
15 sometimes I didn't even ask my client to come because
16 the Commission granted five-year extensions like they
17 were no problem, as long as you showed in a Declaration
18 that you're trying to develop the project and you still
19 care about developing the project. Because the
20 Commission used to look at it as what's wrong with
21 having too many plants permitted. It can only help us
22 if, heaven forbid, we need them. And I want us to go
23 back to 2000 when we needed them and didn't have them
24 permitted, because then we permitted plants in 21 days,
25 so what did that CEQA look like? You guys just took

1 action to approve 10 years and re-up those permits.
2 You approve those to re-up those permits recently, and
3 I think you're more critical on this one that you
4 actually updated to CEQA. So I -- I ask a different
5 question, not why do you need five years, I'm asking
6 the question, why is five years bad for the public or
7 the environment? And I don't think that it is. So I
8 -- I'll shut up now.

9 COMMISSIONER PETERMAN: So I look at it like
10 you've already received a five-month extension from the
11 December date and so that's why I'm particularly
12 questioning that issue and I hear your challenges about
13 why it's been difficult to cite the project, I'm not
14 convinced yet that you'll still be able to, it seems
15 like your major impediment is still present, and so
16 just being cognizant of that fact, that's why I'm
17 inquiring more.

18 COMMISSIONER DOUGLAS: So, Commissioners, as
19 I said earlier before I alarmed the Applicant with
20 asking lots of questions about, you know, why wasn't
21 two years enough, I am supportive of moving an
22 extension through and I think the main question for us
23 is how long the extension should be. I definitely hear
24 the Applicant in their concern that they're not
25 entirely confident that all of the pieces will be in

1 place, even in five years if I read between the lines,
2 you know, in a worse case. You know, I think that the
3 five-year probably -- does a five-year cover your worst
4 case assessment? Or is five years close to it? Just
5 curious.

6 MR. LOOPER: It's my retirement plan after
7 five years, I hope I'm not back in front of the
8 Commission, no. Five years was kind of our worst case
9 scenario, was our span. And so we kind of said, you
10 know, here's -- in talking to the utilities, I mean,
11 PG&E and SCE and SDG&E, are committed to get all source
12 RFOs out, it's just the timeframe of those and they
13 committed on 2012, then they slipped to 2013, and we've
14 heard that they may slip to 2014, and so it's really
15 based on a 2014 type of RFO process that really pushes
16 us the need for the five years.

17 COMMISSIONER PETERMAN: Just, may I
18 interject, Commissioner Douglas? We seem to have some
19 regulatory affairs representatives from the utilities
20 you named in the audience. Anyone willing to comment
21 on the verity of that statement -- veracity of that
22 statement? Okay, no. Thank you.

23 COMMISSIONER DOUGLAS: I see Manny running to
24 the mic. Hang on, everybody. All right, so I'm going
25 to make a motion without really having a very good

1 sense of what my fellow Commissioners think about it,
2 which is, of course, how things are supposed to be.
3 But I'll move to grant the extension, but through
4 December -- what is the date here? The 14th? Through
5 December 14th, so it's essentially from the date of the
6 last extension, it's not five years from today. That
7 will be my motion.

8 COMMISSIONER PETERMAN: And a quick question
9 before we follow through with that motion. Does staff
10 have any comment on that suggested change?

11 MR. BELL: No.

12 MR. GALATI: I didn't understand it. Five
13 years from December 14th, 2011?

14 COMMISSIONER PETERMAN: So I --

15 MR. BELL: If I may, Commissioner Peterman?
16 On balance, you know, staff is trying to be as
17 objective as possible and, on balance, there is some
18 merit to Mr. Galati's previous statement that we now
19 have a completed document before you, the Amendment,
20 and therefore it should be approved as of today. But
21 recall, back in December the Applicant at that time, on
22 the other hand, was saying that they were prepared to
23 accept an extension from that day, as well. So there
24 is a balancing here. So staff would support the
25 Commission's decision to have that extension granted as

1 of December 14th, 2011, back to that date, so that the
2 extension will go to December 14th, 2016.

3 COMMISSIONER DOUGLAS: Yeah, so that's the
4 motion.

5 COMMISSIONER PETERMAN: So I will second the
6 motion that was proposed, which is a five-year
7 extension to December 14th, 2016.

8 CHAIRMAN WEISENMILLER: All those in favor?

9 (Ayes.) The item passes unanimously. Thank
10 you.

11 MR. GALATI: Thank you.

12 CHAIRMAN WEISENMILLER: Item 5, Lead
13 Commissioner and Presiding Commissioner Reports.

14 COMMISSIONER DOUGLAS: Well, there is a
15 meeting with the Desert Renewable Energy Conservation
16 Plan in Ontario, California, and if I weren't here for
17 this, I would be there. But because I'm not there, I'm
18 not yet prepared to report on it, so maybe in the next
19 business meeting I'll do so.

20 CHAIRMAN WEISENMILLER: Well, if I wasn't
21 here, I'd be in San Diego now with the Military, but
22 I'm not there, so...

23 COMMISSIONER PETERMAN: I have nowhere to be
24 but here.

25 CHAIRMAN WEISENMILLER: Anyway, two quick

1 comments. One is I was at USC's Earth Day yesterday,
2 as was the Executive Director, and as most of you know,
3 I've been very involved in the San Onofre issues and
4 the "Summer of" issues. On the San Onofre issues, I
5 think I indicated the last time, you know, that a key
6 question was, what was the root cause of the wearing of
7 the tubes on Unit 2 and Unit 3, and the differences in
8 wearing patterns? And my understanding at this point
9 is Edison is feeling confident that they are getting
10 close to understanding that, which ultimately they will
11 have to convince the NRC of their assessment. And with
12 that, the next question, well, part of that question
13 will be, what is the mitigation for that? And that is
14 certainly fairly complicated also, which again will
15 have to go through the NRC. We don't want to do
16 something which shifts the resonance vibrations from
17 one part of the tubes to a different part, as we go
18 forward. So, anyway, we're making progress and I think
19 people are more hopeful that we may have Unit 2 back
20 for the summer, although we're still on a planning
21 basis doing everything we can to prepare against if
22 it's not.

23 I would note that last week a letter went
24 from myself, Mary Nichols, PV and Steve Berberich to
25 the Region IX Administrator on the Huntington Beach

1 issues and we're hoping to get some resolution on
2 Huntington Beach 3 and 4's restart this week. And
3 also, the event I would have been at is working with
4 the Navy on Demand Response down in San Diego, but we
5 -- Kevin Barker is there, among others from State
6 Government. So, anyway, we're certainly -- the intent
7 is to be prepared, belts and suspenders, if neither
8 unit at San Onofre is on this summer. So with that,
9 Chief Counsel's Report.

10 MR. LEVY: Good afternoon, Commissioners.
11 I'd like to request a closed session to discuss facts
12 and circumstances which presents significant exposure
13 to litigation against the Commission.

14 CHAIRMAN WEISENMILLER: Okay. Do you have a
15 sense of how long that closed session should be?

16 MR. LEVY: Half an hour.

17 CHAIRMAN WEISENMILLER: Half an hour? Okay.
18 So after we finish the reports, we will recess for a
19 half hour and then come back after that.

20 Executive Director's Report?

21 MR. OGLESBY: Only to report that we have our
22 budget up at Senate Budget Committee. Shortly, I will
23 be headed off there, as soon as we recess.

24 CHAIRMAN WEISENMILLER: Okay. Public
25 Advisor's Report?

1 MS. JENNINGS: I have nothing to report,
2 thank you.

3 CHAIRMAN WEISENMILLER: Okay. So Public
4 Comment?

5 MR. ALVAREZ: Good afternoon, Commissioners.
6 Manual Alvarez, Southern California Edison. I just
7 wanted to come up in the public comment period and
8 bring to your attention, at least your last item that
9 you took on the Blythe project, you know, it does
10 represent, at least it illustrates, at least from my
11 perspective, a number of things that are going on in
12 the market. The issue of capacity markets surface, the
13 structure, contracts, and RFOs. I think the Commission
14 is kind of at the beginning of a relationship between
15 the PUC and the ISO that can address many of those
16 issues in the future, and I encourage you to kind of
17 open that door and look at the questions of market
18 structure and how they're impacting the sequencing and
19 development of facilities for the state, both on the
20 transmission and on the generation side. So, just a
21 piece of advice.

22 CHAIRMAN WEISENMILLER: Thank you. So with
23 that advice, we will recess now. We will be back at
24 roughly 3:00.

25 (Recess at 2:21 p.m.)

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(Reconvene at 2:58 p.m.)

CHAIRMAN WEISENMILLER: We've just returned from a closed session on litigation matters. The meeting is adjourned.

(Whereupon, at 2:58 p.m., the business meeting was adjourned.)

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