

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION

Docket No. 01-AFC-20

FOR THE AVENAL ENERGY PROJECT

DOCKET	
01-AFC-20	
DATE	MAY 8 2006
REC'D	MAY 8 2006

COMMITTEE ORDER TERMINATING PROCEEDING

SUMMARY

On April 24, 2006, Federal Power Avenal, LLC, the successor in interest to Duke Energy Avenal, LLC, filed a request to further suspend proceedings on the Application for Certification (AFC) of the Avenal Energy Project (Project) until May 1, 2007. This Order denies the request and recommends that the Commission terminate the proceeding.

I. BACKGROUND

Duke Energy Avenal, LLC, submitted the AFC on October 15, 2001. The Energy Commission found the application data adequate for the twelve-month review process beginning on December 19, 2001. Commission staff released the Preliminary Staff Assessment (PSA) on September 9, 2002. Duke had previously requested a suspension in the review of this case for a period of six months, which was granted by the Committee on October 10, 2002. Prior to the close of that six-month suspension, Duke requested, and the Committee granted, an additional suspension of one year, until May 1, 2004. In April 2004, Duke Energy Avenal, LLC, requested and was granted, yet another suspension to May 1, 2005.

On April 13, 2005, the Project's new owner, Federal Power Company, LLC, requested an additional extension to May 1, 2006. Federal Power Company LLC had purchased the Project from Duke Energy through its subsidiary Federal Power Kings County, LLC. The current owner renamed the project Federal Power Avenal, LLC. On April 24, 2006, the Project applicant, for a fifth time requested an extension. On May 5, 2006 Staff filed its opposition to Applicant's request in the form of a *Motion to Terminate* the Avenal proceeding.

II. DISCUSSION

Section 1720.2 of our regulations [20 Cal. Code of Regs., §1720.2] provides that a Committee may terminate a proceeding based upon an Applicant's failure to pursue the application or notice with due diligence. The Committee finds that the considerable period of inactivity in this case falls within this provision, and that no useful purpose would be served by continuing the period of suspension.

The Committee therefore issues this **ORDER**.

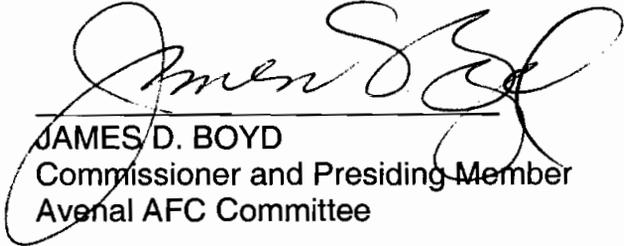
III. ORDER

The Applicant's request to continue the suspension of these proceedings is **DENIED**.

The Commission staff's motion to terminate this proceeding is **GRANTED**.

In accordance with section 1720.2(b) of our regulations [20 Cal. Code Regs §1720.2(b)], the full Commission will consider the present **ORDER** at its May 24, 2006 regularly scheduled business meeting. Parties desiring to comment upon this **ORDER** shall file and serve such written comments, in the normal fashion, no later than 12:00 noon on Friday, May 19, 2006.

Dated: May 8, 2006



JAMES D. BOYD
Commissioner and Presiding Member
Avenal AFC Committee

Proof of Service List (Revised on 8/1/05)
filed with Original Document. Mailed from
Sacramento on MAY 8, 2006).

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

Application for Certification
for the AVENAL ENERGY Project

Docket No. 01-AFC-20

**PROOF OF SERVICE
[*REVISED 8/1/05]**

DOCKET UNIT

Instructions: Send an original signed document plus 12 copies or an electronic copy plus one original paper copy to the address below:

CALIFORNIA ENERGY COMMISSION
DOCKET UNIT, MS-4
Attn: Docket No. 01-AFC-20
1516 Ninth Street
Sacramento, CA 95814-5512

* * * *

Also send a printed or electronic copy of all documents to each of the following:

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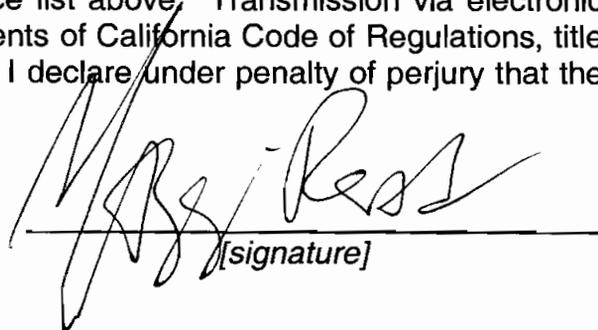
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DECLARATION OF SERVICE

I, Maggie Read, declare that on May 8, 2006, I deposited copies of the attached Committee Order Terminating Proceeding in the United States mail at Sacramento, CA with first class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above. Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. I declare under penalty of perjury that the foregoing is true and correct.



[signature]

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