DOCKET
03-AFC-2
DATE OCT 28 2005
RECD. OCT 28 2005

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:	)	Docket No. 03-AFC-2
	)	
Application for Certification for the Los Esteros	)	
Critical Energy Facility 2 – Phase 2	)	
	)	

APPLICANT'S COMMENTS
ON
PRESIDING MEMBER'S PROPOSED DECISION

October 28, 2005

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APPLICANT'S COMMENTS
ON
PRESIDING MEMBER'S PROPOSED DECISION

The Los Esteros Critical Energy Facility LLC ("Applicant") submits these comments on the Presiding Member's Proposed Decision ("PMPD") on Phase 2 of this Application for Certification ("AFC") proceeding.

The Applicant strongly supports the PMPD. The Committee's proposed decision accurately and fairly summarizes the evidence presented in this proceeding in every subject area.

The Applicant has only a few comments on the PMPD. These comments are limited to non-substantive update, clarification or correction of proposed text and conditions and to the correction of typographical errors.

Suggested Clarifications and Corrections

The Bike Path

The issue of the Bike Path is discussed at pages 296-297 of the PMPD. As stated in the PMPD, based on information provided by the City, "it appears that the bike path in question is a City bike path located on CALTRANS right-of-way. That being the case, the Applicant has no ability to simply repair the bike trail, even were it so inclined. The City also prefers that Applicant make a financial contribution rather than do the repair work. Applicant has agreed, during negotiations with the City of San Jose, to fund repairs up to the sum of $23,000.00, that being the amount the City estimates will be required." (PMPD, p. 297)

Subsequent to the issuance of the PMPD, the City has informed the Applicant that it declines to accept responsibility for the repair or maintenance of the bike path and that the City is not able to receive any funds from the Applicant for that purpose. At first, the City believed that

the Applicant should make arrangements with CALTRANS and the Applicant promptly approached that agency to request repair of the bike path. However, the City has now informed the Applicant that yet another agency may be responsible for this facility. In addition, the City has informed us for the first time that the bike path may only be a temporary facility and may not be considered appropriate for permanent improvements.

The Applicant has devoted extraordinary time and effort, working first with the City and then with CALTRANS, to resolve this matter as directed by the Committee. We have participated in appraising the cost of repairs and in drafting and negotiating funding agreements. We have offered to fund the full cost of the estimated repairs, even though we believe that PG&E and SVP share in responsibility for the repairs.

Despite our best efforts we have been unable to find a governmental agency willing to accept responsibility for undertaking the repairs. Nevertheless, we stand willing to make an appropriate financial contribution, should it be determined that a governmental agency accepts responsibility for the repair and maintenance of the bike path. Therefore, we propose that condition Land-1 be modified to require the Applicant to make a financial contribution of up to $23,000, the full amount of the estimated repairs, should a governmental agency step forward and accept responsibility for the repair and maintenance of a bike path in the vicinity of the project. Please see Attachment 1 for the proposed revisions to Condition Land-1

Worker Safety

At the Phase 2 Evidentiary Hearing held on June 30, 2005, the Applicant and Staff jointly recommended that the Commission replace Worker Safety Conditions 4 and 5, as originally proposed by the Staff, with Worker Safety Condition 3 as adopted by the Commission in its "ORDER APPROVING a Petition to Change to GE 107H Combined-Cycle Systems and add

secondary laydown/parking areas" issued June 22, 2005 in Docket No. 01-AFC-17C. (6/30/05 RT 39-41) Please see Attachment B for the language to be substituted.

Due to an apparent oversight, the PMPD contains the originally proposed Worker Safety Conditions 4 and 5, rather than the Condition agreed to by the Applicant and Staff. We therefore request that this change be made to the PMPD.

COM-8

As noted at the Evidentiary Hearing, the Staff and Applicant agreed to revisions to COM-8, as set forth in Attachment B to Staff's Evidentiary Hearing Statement, filed June 23, 2005. (6/30/05 RT 14-15). For the Committee's reference, these revisions as agreed to by the Staff and the Applicant are set forth as Attachment C to these comments. Due to an apparent oversight, these changes were not included in the PMPD. We would ask that these changes be incorporated into the proposed decision.

Additional updates and corrections

p. 3, 3rd para, 1st sentence: (typo) Please delete "been" from "has not been made zoning".

p. 5, 2nd para. under Section C, 1st sentence. (correction) Please rewrite this sentence to read: "The project site is fenced on all sides with the north bounded by a chain-link fence at site grade, the west bounded by a sound wall at site grade, and the south and east bounded by a sound wall on an elevated berm."

p. 5, 2nd para. under Section C, line 5: (update) Please replace "plans to build a 230 kV switching station" to "has built a 230 kV switching station".

p. 8, 1st para, last sentence. (update) The completion of the stormwater discharge line is now scheduled for 2006 (not 2005).

p. 9, 1st para, last sentence. (typo) Please change "June 16, 2004" (Ph 1 recertification date) to "March 16, 2005".

p. 9, 1st para under Section E, last sentence. (typo) Please change "June 16, 2004" (Ph 1 recertification date) to "March 16, 2005".

p. 21, 2nd para, 4th line from bottom. (update) Please change "Completion is scheduled for 2005" to "Completion is scheduled for 2006".

p. 114, Finding #8. (update) This finding and the preceding section mention the expansion of the PG&E Los Esteros Substation by 2400 square feet into the SVP property. In a recent letter (Attachment D) dated 9-7-05, PG&E agreed to reconfigure the layout of the breakers to not require the expansion of their Substation. Please revise #8 to read: "The interconnection of the Phase 2 project would result in the need for new circuit breakers at the Los Esteros Substation."

p. 137, condition TLSN-1, first sentence. (clarification) In the preceding discussion, the PMPD correctly notes that the previously proposed underground lines were not the selected option for Phase 2. Therefore, for clarity, the words "the proposed and" may be deleted from this sentence.

p. 163, condition AQ-19(b). (correction) The basis for the ammonia slip limit condition is cited as BACT; this is incorrect. FDOC indicates that the basis is BAAQMD Toxics Risk Management Policy.

p. 165, condition AQ-22. (correction)

- In the table of mass emission limits, the limit for NOx (as NO2), All 4 turbine/HRSG Power Trains (lb/day) should be 1,009.6 not 1,009.4.
- Following the table of mass emission limits, the following paragraph is missing from the PMPD:

The daily mass limits are based upon calendar day per the definitions section of the permit conditions. The annual mass limit is based upon a rolling 8,760-hour period ending on the last hour. Compliance shall be based on calendar average one-hour readings through the use of process monitors (e.g., fuel use meters) CEMS, source test results, and the monitoring, recordkeeping and reporting conditions of this permit. If any part of the CEM involved in the mass emission calculations is inoperative for more than three consecutive hours of plant operation, the mass data for the period of inoperation shall be calculated using a District-approved alternate calculation method. (Basis: cumulative increase, recordkeeping)

p. 294, 2nd line from bottom. (typo) Please delete second "2002".

Conclusion

The PMPD is a well-reasoned document that accurately and fairly summarizes the evidence on the myriad of issues considered by all parties during this AFC proceeding. The

Applicant has suggested a few minor changes. Overall, the Applicant strongly supports the PMPD and urges that the full Commission adopt it.

Dated: October 28, 2005

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By _____

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ATTACHMENT A

PROPOSED REVISION TO CONDITION LAND-1

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LAND-1 To help maintain public access and recreation adjacent to the project site, the project owner shall fund an endowment through a one-time payment of up to $23,000.00, as determined by the CPM, to be used for the repair of a paved bikeway immediately adjacent to Highway 237, between Zanker Road and Coyote Creek ("Bikeway").

Verification: The project owner shall notify the City of San Jose, CalTrans and the Water Pollution Control Plant that it may apply for up to $23,000 for funding of bikeway improvements adjacent to Highway 237 between Zanker Road and Coyote Creek. If one of these three agencies provides evidence to the CPM prior to January 1, 2010, of its intent to repair or construct a Bikeway in this vicinity, the CPM shall request the Project Owner to transmit funds up to $23,000 to the designated agency for this purpose. The project owner shall transmit the funds requested by the CPM within 90 days following receipt of the request.

ATTACHMENT B

PROPOSED CONDITION REGARDING WORKER SAFETY MONITOR

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PROPOSED CONDITION REGARDING WORKER SAFETY MONITOR

WORKER SAFETY-3 The Project Owner shall ensure that a CPM-approved Safety Monitor(s) conducts an on-site safety inspection of the power plant at least once a week during construction of permanent structures and commissioning unless a lesser number of inspections is approved by the CPM. The CPM may also require a similar inspection and report concerning linear facilities.

The Safety Monitor shall keep the Chief Building Official (CBO) fully informed regarding safety-related matters and coordinate with the CBO concerning on-site safety inspections, and the final safety inspection prior to issuance of the Certificate of Occupancy by the CBO. The Safety Monitor will be retained until cessation of construction and commissioning activities, and issuance of the Certificate of Occupancy, unless otherwise approved by the CPM.

The Safety Monitor(s) shall also:

- Correct any construction or commissioning problems that could pose a future danger to life or health, consulting with the CBO as necessary.
- Have the authority to temporarily stop construction or commissioning activities involving possible safety violations or unsafe conditions that may pose an immediate or future danger to life or health, until the problem is resolved to the satisfaction of the Safety Monitor and/or CBO.
- Consult with the CBO to determine when construction may resume unless the problem is corrected immediately, and to the satisfaction of the Safety Monitor and/or CBO.
- Inform the CPM within 24 hours of any temporary halt in construction or commissioning activities.
- Be available to inspect the site whenever necessary in addition to the minimum weekly basis during construction and commissioning as determined in consultation with the CBO and CPM.
- Develop a safety program for the Project that complies with Cal/OSHA & federal regulations related to power plant projects.
- Ensure that all federal and Cal/OSHA requirements are practiced during the construction and installation of all permanent structures (including safety aspects of electrical installations).

- Ensure that all construction and commissioning workers and supervisors receive adequate safety training.

- Conduct safety training (including fall protection, confined spaces, respiratory protection, hazard communication, etc.), or ensure that the Project owner, union hall, and/or contractors conduct adequate safety training.

- Maintain all Material Safety Data Sheets, storage of all hazardous materials and all other required documentation for Cal/OSHA.

- Complete all accident and incident investigations, emergency response reports for injuries and inform the CPM of OSHA Recordable and Lost Time incidents.

- Ensure that all the plans identified in WORKER SAFETY-1 are implemented.

The Safety Monitor shall be qualified regarding the following:

- Safety issues related to equipment, pipelines, etc,

- LORS applicable to workplace safety and worker protection

- Workplace hazards typically associated with power production

- Lock out tag out and confined spaces control systems

- Site security practices and issues

Verification: The Project owner shall submit the Safety Monitor(s) resume(s) to the CPM for approval at least 30 days prior to site mobilization. One or more individuals may hold this position.

The Safety Monitor shall submit in the Monthly Compliance Report a monthly safety inspection report to include:

- Records of all employees trained for that month (all records shall be kept on site for the duration of the Project);

- A summary report of safety management actions that occurred during the month;

- A report of any continuing or unresolved situations and incidents that may pose danger to life or health;

- Reports of OSHA Recordable and Lost Time incidents and injuries that occurred during the month.

ATTACHMENT C

PROPOSED REVISION TO CONDITION COM-8

ATTACHMENT C

COM-8, Construction and Operation Security Plan

At least 14 days prior to commencing construction of the Phase 2 Project, a site-specific Security Plan for the construction phase shall be ~~submitted to the CPM for approval~~ completed. At least 30 days prior to the initial receipt of hazardous materials on-site, a site-specific Security Plan for the operational phase shall be ~~submitted to the CPM~~ completed ~~for review and approval~~.

Construction Security Plan

The Construction Security Plan shall include the following:

1. site fencing enclosing the construction area;
2. use of security guards;
3. check-in procedure or tag system for construction personnel and visitors;
4. protocol for contacting law enforcement and the CPM in the event of suspicious activity or emergency; and
5. evacuation procedures.

Operation Security Plan

1. The Operations Security Plan shall include the following:
2. permanent site fencing and security gate;
3. evacuation procedures;
4. protocol for contacting law enforcement and the CPM in the event of suspicious activity or emergency;
5. fire alarm monitoring system;
6. site personnel background checks, including employee and routine on-site contractors [Site personnel background checks are limited to ascertaining that the employee's claims of identity and employment history are accurate. All site personnel background checks shall be consistent with state and federal law regarding security and privacy.];
7. site access for vendors; and
8. requirements for Hazardous Materials vendors to prepare and implement security plans as per 49 CFR 172.800 and to ensure that all hazardous materials drivers are in compliance with personnel background security checks as per 49 CFR Part 1572, Subparts A and B.

In addition, the Security Plan shall include one or more of the following in order to ensure adequate perimeter security:

1. security guards;
2. security alarm for critical structures;
3. perimeter breach detectors and on-site motion detectors; and
4. video or still camera monitoring system.

~~9. In addition, in order to ensure adequate perimeter security, the Security Plan shall include either:~~

~~a. guards on-site 24 hours per day, 7 days per week or~~

~~b. operations staff on-site 24 hours per day 7 days per week **plus** all of the following:~~

- ~~The entire power plant perimeter is protected by a chain-link fence topped with barbed or concertina wire.~~
- ~~The site is equipped with security cameras that can zoom, have low-light function, and are recorded, viewed, and controlled from the power plant control room and which are positioned such that they cover 100% of the perimeter fenceline, the aqueous ammonia storage tank, and the entrance to the control room.~~
- ~~Perimeter breach detectors (either infrared or microwave) that are placed inside along the entire perimeter fence and report to the control room.~~

Vulnerability Assessment

In addition, in order to determine the level of security appropriate for this power plant, the project owner shall prepare a Vulnerability Assessment and implement site security measures that is consistent with guidelines including but not limited to the Chemical Accident Prevention Alert regarding Site Security (EPA 2000), the Department of Justice Chemical Facility Vulnerability Assessment Methodology (US DOJ 2002), the North American Electric Reliability Council Security Guidelines for the Electricity Sector (NAERC 2002), the U.S. Department of Energy Vulnerability Assessment Methodology for Electric Power Infrastructure (DOE 2002), and from the California Energy Commission. The level of security to be implemented is a function of the likelihood of an adversary attack, the likelihood of adversary success in causing a catastrophic event, and the severity of consequences of that event. This Vulnerability Assessment will be based, in part, on the use and storage of certain quantities of acutely hazardous materials as described by the California Accidental Release Prevention Program (Cal-ARP, Health and Safety Code section 25531). Thus, the results of the off-site consequence analysis prepared as part of the Risk Management Plan (RMP)

will be used to determine the severity of consequences of a catastrophic event and hence the level of security measures to be provided.

The Project Owner shall fully prepare and implement the security plans and maintain the plans in a secure location at the project site. The security plans shall be available onsite for CPM review. ~~obtain CPM approval of a~~Any substantive modifications to the Security Plans must be approved by the CPM. The CPM may authorize modifications to these measures, or may recommend additional measures depending on circumstances unique to the facility, and in response to industry-related security concerns.

The Project Owner shall fully implement the security plans and obtain CPM approval of any substantive modifications to the Security Plan. The CPM may authorize modifications to these measures, or may recommend additional measures depending on circumstances unique to the facility, and in response to industry-related security concerns.

ATTACHMENT D

PG&E LETTER REGARDING EXPANSION OF THEIR SUBSTATION

Pacific Gas and Electric Company®

Electric Transmission Rates

US Mail:
Mail Code B13L
Pacific Gas and Electric Company
P.O. Box 770000
San Francisco, CA 94177-0001

Overnight Mail:
Mail Code B13L
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105-1814

415.973.2858
Fax: 415.973.9174

September 7, 2005

SEP 1 2 2005

Mr. Robert Streich
Silicon Valley Power
1500 Warburton Avenue
Santa Clara, CA 95050-3796

RE: The proposed interconnection of Calpine's Los Esteros Critical Energy Facility into Silicon Valley Power's 230 kV Switching Station.

Dear Mr. Streich:

Thank you for meeting with us on July 25, 2005 to discuss the proposed interconnection of Calpine's Los Esteros Critical Energy Facility (LECEF) into the 230 kV Switching Station recently built by Silicon Valley Power (SVP) and PG&E's System Impact Study Report (SI) related to this interconnection. At the meeting, SVP expressed concern with PG&E's determination in the SI that the bus-sectionalizing switches between PG&E's Los Esteros Substation and SVP's Switching Station 230kV buses must be replaced with circuit breakers. At the conclusion of the meeting, SVP asked PG&E to reconsider this requirement.

As promised, we have reviewed the prior determination, discussed it with our management and have concluded that it is appropriate to uphold our original decision that two bus-sectionalizing breakers will be required between our two stations should LECEF interconnect into the SVP Switching Station.

PG&E has consistently maintained this position since April 2004 and has stated this to SVP in previous meetings, emails and in the SI. PG&E's support for this requirement based upon procedures, reliability considerations, and the position of the CAISO is as follows:

- According to the PG&E Interconnection Handbook, each individual Party is responsible for protecting their own equipment. Without bus-sectionalizing breakers, a piece of the SVP bus is being protected by PG&E's bus differential protection scheme. This contradicts our Interconnection Handbook.

- According to PG&E's Substation Engineering Bulletin IB0160: Bus Configurations for Generator Interconnections, when multiple generators propose to interconnect with an existing PG&E substation, a collector station configuration may be required. For this configuration, the Bulletin states that PG&E is to install and own bus-sectionalizing breakers between the existing PG&E substation and the collector station.

- The CAISO has also recommended that bus-sectionalizing breakers be installed if LECEF connects into the SVP Switching Station. In an e-mail dated October 31, 2003, Irina Green of the CAISO states, "In our opinion, using sectionalizing circuit breakers instead of switches would be more reliable." SVP is copied on this e-mail.

- The presence of bus-sectionalizing breakers makes both stations more reliable. PG&E considers Los Esteros Substation to be a critical element in the San Jose transmission system. Sectionalizing breakers make fault clearing more selective, so that bus faults or breaker-failure events do not result in an entire 230 kV bus being cleared.

- Without sectionalizing breakers, if a fault occurs on a section of the 230 kV bus, all of the PG&E and SVP breakers attached to that bus need to open to clear the fault. If a breaker fails to open, damage could occur to SVP and PG&E equipment. The installation of sectionalizing breakers not only provides more selective fault clearing, it also minimizes the probability of equipment damage due to breaker failure. In the future, when PG&E adds more 230kV connections into Los Esteros Substation, the number of breakers involved in clearing a bus fault will increase, increasing the probability of a breaker failure event. This is a liability issue.

- PG&E's initial position for the original SVP Switching Station interconnection was that bus-sectionalizing breakers should be installed to separate the two station buses. However, an accommodation was made for SVP, so that they could quickly interconnect their Switching Station to our Los Esteros Substation.

- Prior to procurement or construction of the 230 kV line and Switching Station facilities, PG&E informed SVP that bus-sectionalizing breakers would be required if SVP did interconnect the LECEF plant into the Switching Station. PG&E suggested to SVP that the necessary breakers be installed instead of switches, if SVP was planning on connecting LECEF in the future.

However, PG&E wants to work cooperatively with SVP and assist them in this project. We understand SVP's concerns with the costs associated with making space available for breakers, given the limited property available at the Switching Station. PG&E has developed a design to accommodate the installation of bus-sectionalizing breakers without requiring major modifications to the SVP Switching Station.

This design modifies the existing drainage ditch inside our Los Esteros Substation to enable the two necessary bus sectionalizing breakers to be installed. PG&E proposes the following scope of work for each 230kV bus:

- Remove the two bus support structures and the bus section between PG&E's existing bus disconnect switch and SVP's metering units.
- On the PG&E side of the fenceline, install one 230kV switch support and dead-end structure, one 230kV breaker, one 230kV breaker disconnect switch which will also serve as a disconnect for SVP's metering units (similar to the existing arrangement).
- On the SVP side of the fence, install one 230kV dead-end structure above the three metering, for extending the bus to the metering units.
- PG&E to make new 230kV overhead connection to tie Los Esteros and SVP together.
- Add and modify all required protection schemes.

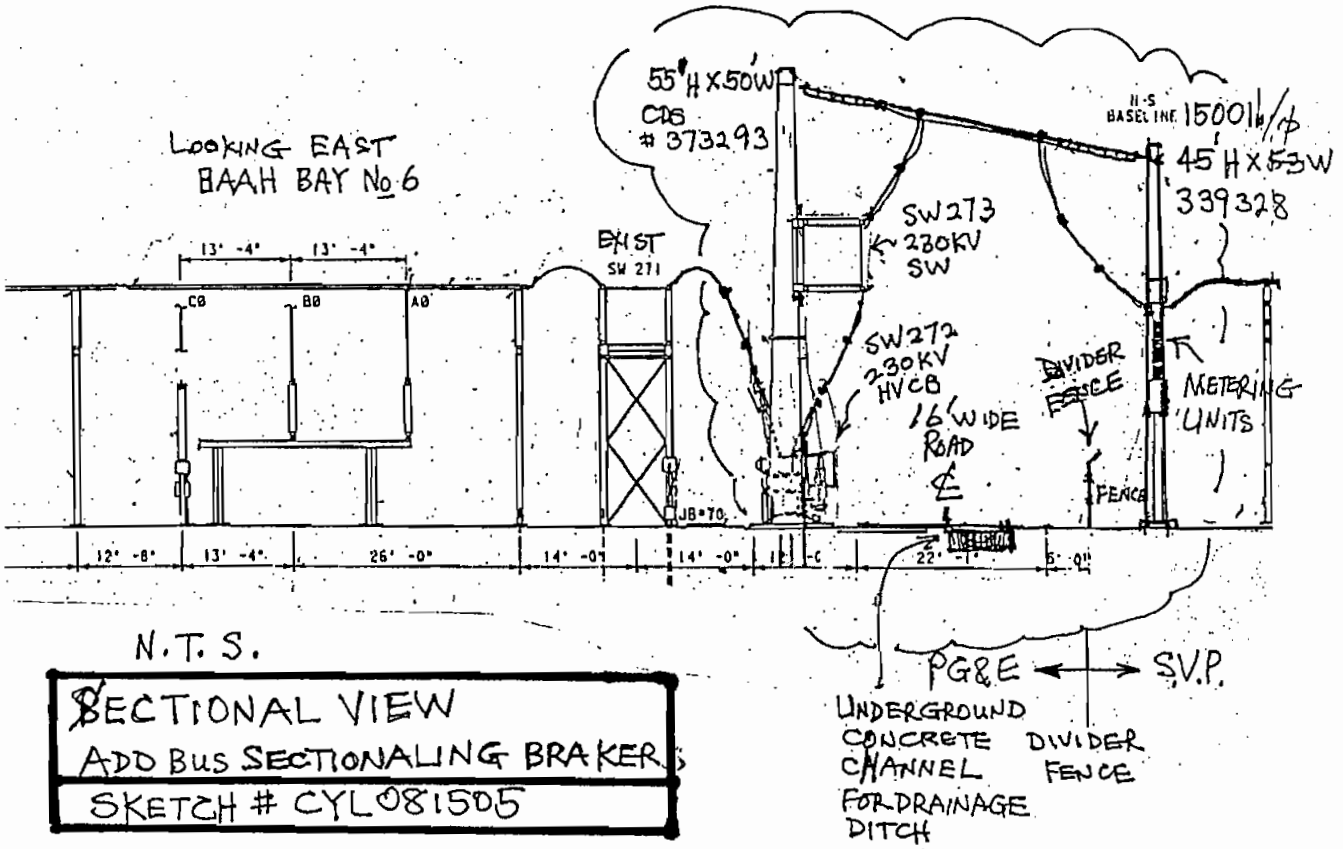
Please note that this work will be done at SVP's expense. Attached, please find a proposed layout for adding the bus-sectionalizing breaker onto each 230kV bus. This sketch shows a plan view and a section view all in one sheet.

I look forward to working with you towards this proposed resolution. Please let me know SVP's thoughts as soon as possible so that we may continue to support SVP's proposed timeline for the LECEF interconnection into the SVP Switching Station. If you have any questions, please contact me at (415) 973-5548.

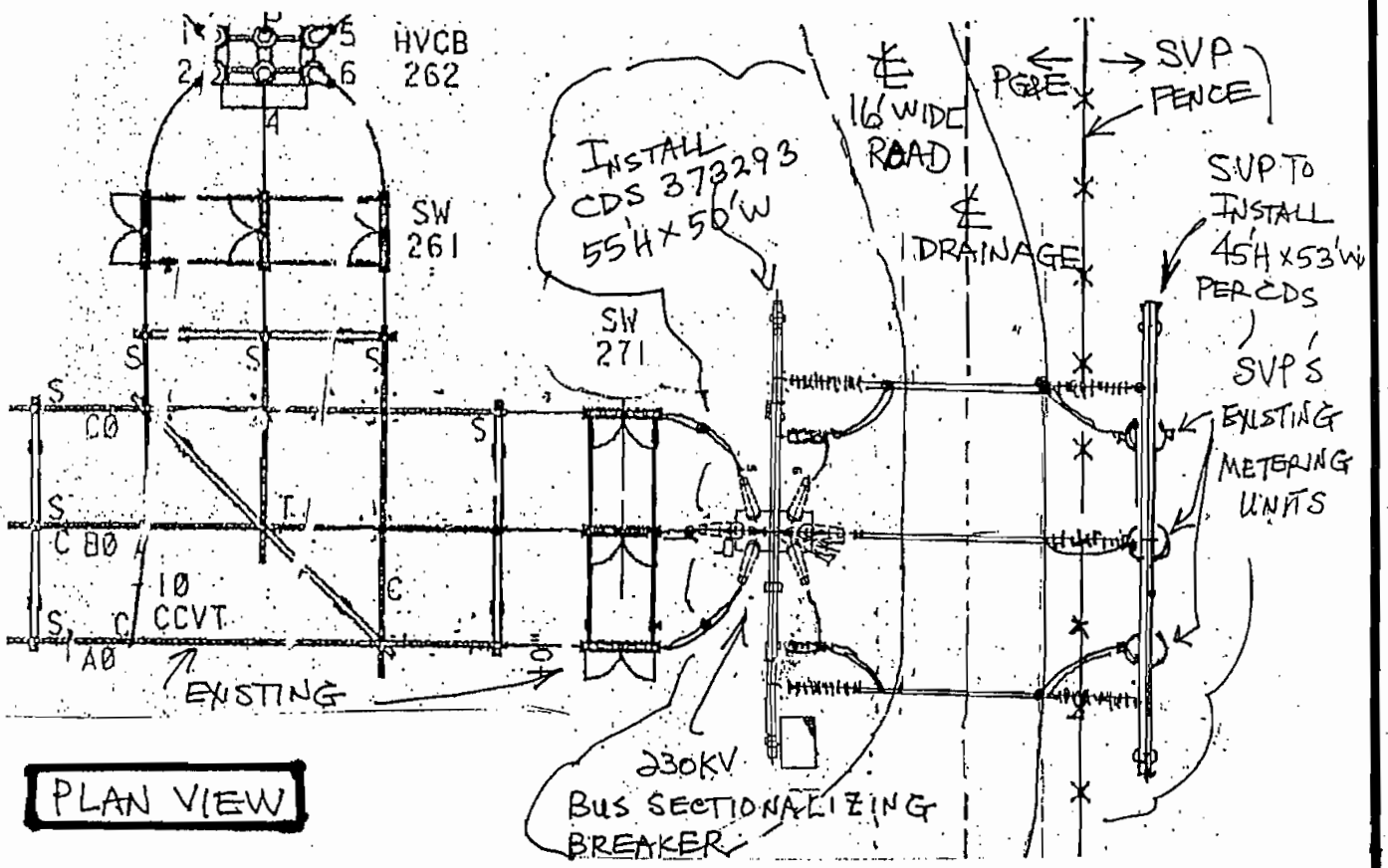
Sincerely,

Vicki La Due
Senior Account Manager

cc: Pat Irwin
Issac Moore
Kevin Kozminski
Manho Yeung
Feliks Karchemskiy
Chung Lam
Paul Gill
Ron Markham



SECTIONAL VIEW
ADD BUS SECTIONALING BRAKERS
SKETCH # CYL081505



PLAN VIEW

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Application for Certification for the LOS ESTEROS CRITICAL ENERGY FACILITY PHASE 2 (LOS ESTEROS 2)	)))))	Docket No. 03-AFC-2

PROOF OF SERVICE

I, Ron O'Connor, declare that on October 28, 2005, I deposited copies of the attached *Applicant's Comments on Presiding Member's Proposed Decision* 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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03-AFC-2

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