State Of California | The Resources Agency of California

Memorandum

Date: October 24, 2008
Telephone: (916) 654-4894

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To: Vice Chairman James D. Boyd, Presiding Member
Commissioner Karen Douglas, Associate Member
Paul Kramer, Hearing Officer

From: California Energy Commission – Mike Monasmith
1516 Ninth Street Project Manager
Sacramento, CA 95814-5512

Subject: **CARLSBAD ENERGY CENTER PROJECT (07-AFC-6) STATUS REPORT 2**

Pursuant to the Committee Scheduling Order dated October 14, 2008, staff issues Status Report #2 for the proposed Carlsbad Energy Center Project (CECP) Application for Certification (AFC). This report describes the dynamics at work in the CECP review process that account for the delays in this proceeding, and provides an updated schedule for the Committee's consideration.

City of Carlsbad

Staff has continued to work through the discovery and analysis phase for the proposed CECP. This discovery has included five encompassing sets of data requests to Carlsbad Energy Center, LLC (applicant), with corresponding data responses and two issue resolution workshops. The City of Carlsbad (city) has been involved in this proceeding from the time the AFC was filed on September 11, 2007. Since then, the city has filed four sets of data requests, a status report, and numerous filings (regarding Land Use, Noise, Visual Resources and Water Resources) and pleadings, including letters to the Coastal Commission seeking their review of the project. The city has also facilitated meetings with Caltrans in regard to the expansion of the adjacent I-5 Freeway and associated impacts. The city requested that the applicant erect story pole balloons depicting the height of the CECP emission stacks (which the applicant complied with for a one-week period in June, including an open house on the evening of June 21, 2008 to explain the project to residents).

The city has asserted their inherent interest in the CECP process as the primary local agency concerned with the project's potential impacts on the environment and public health. Accordingly, they have taken a lead role on behalf of Carlsbad residents, and have kept them informed through direct mail and extensive media outreach. While the city has indicated it understands the need for additional electrical generation within its boundaries to meet local and regional electrical requirements, it also has stated that it believes there are viable offsite alternative locations within its borders where the CECP could be located (thereby allowing for the eventual redevelopment of the entire 95-acre coastal Encina Power Station site).

The applicant prepared and docketed an Offsite Alternative analysis on April 17, 2008 that addressed the technical and environmental issues associated with two, specific alternative site locations the city requested that the applicant consider. The applicant's analysis determined that the offsite alternative sites recommended by the city (Maerkle Reservoir and Carlsbad Oaks North) would have significant visual, noise, biological and/or traffic impacts. Additionally, the applicant indicated that the two alternative sites did not provide the required infrastructure for electrical interconnection, nor were the sites located in close enough proximity to natural

gas, water and sewer access to be feasible. Based on these findings, the applicant concluded that the two alternative sites recommended by the city are not feasible. The city has provided staff with information on additional sites and has indicated a comprehensive filing is forthcoming. Staff will include analysis for five locations in the Alternatives section of the Preliminary Staff Assessment.

CECP Project Enhancements and Refinements (PEAR)

The CECP initially proposed the use of reclaimed (Title 22) water for process needs and air cooling, thereby eliminating over 220 million gallons per day of once-through ocean water cooling used by three of the five Encina Power Station units (1, 2 and 3), which the CECP's approval would permanently close. However, it is the city's position that there is not sufficient capacity of reclaimed water available to meet the CECP needs from its Encina Waste Water Authority. While the applicant does not agree with the city on the lack of capacity of reclaimed water, they nonetheless amended the project by proposing a supplement to primarily stipulate construction of a small onsite ocean water purification (desalination) system to supply the high quality industrial water required for the CECP. To incorporate this new component into the AFC, the applicant prepared and docketed the Project Enhancements and Refinements (PEAR) supplement on July 25, 2008 to provide information regarding the construction and use of the desalination system. The system would provide a maximum peak water demand of 625,000 gallons per day on use of 4 million gallons of sea water per day.

The PEAR also included realignment and partial undergrounding of the applicant's 230 kV transmission line, and the construction of a new SDG&E 230kV switchyard located south of the existing SDG&E Cannon substation. The third component of the PEAR brought additional clarification to the above ground fuel oil storage tank demolition and associated remediation activities, reflecting staff concerns about responsible local agencies, soil removal and verification activities, and the completeness of the work plan. PEAR-based data requests and data responses have been filed, the latest of which (Set 3B Data Responses) was docketed on October 22, 2008 clarifying Biological Resources, Cultural Resource, Waste Management and Water issues.

San Diego County Air Pollution Control District/Air Quality:

If the CECP is approved, the applicant will permanently close circa 1952 Encina Power Station Units 1, 2 and 3. The applicant has requested the use of the net emission reduction from the closed Units 1, 2 and 3 for the determination of appropriate CECP mitigation requirements. San Diego County Air Pollution Control District (SDAPCD) has performed a thorough review of the baseline and has obtained updated data from the applicant. Based on this revised baseline and net emissions increase determination, SDAPCD's Preliminary Determination of Compliance (PDOC) would require the applicant to offset their net increase in Nitrogen Oxide (NOx) emissions. The PDOC is expected to be published at the end of the third or during the fourth full week of October (24th to the 30th). In addition to the District's required NOx offset mitigation, staff will be recommending that the applicant provide a small amount of emission reduction credits, either from the District offset bank or by funding the creation of new emissions reductions, for particulate matter, volatile organic compounds (VOCs), and sulfur oxides (SOx) to fully mitigate the project's net permitted increase in nonattainment pollutants and their precursors.

Intervenor Involvement

On September 9, 2008, the Committee granted Intervenor status to Earthjustice on behalf of the Earth Island Institute. On September 26, 2008, Intervenor Earthjustice filed their first set of data requests. The applicant responded on October 14, 2008 with an objection letter that outlined a number of reasons (including timeliness, relevance and standing) on why they will not be providing corresponding data responses at this time. An additional petitioner, Mr. Rob Simpson of Hayward, California, was granted Intervenor status by the Committee on October 14, 2008, but has not filed any data requests as of this date.

Schedule

Schedule delays have occurred in large part due to an ongoing series of events and developments, including those mentioned above. With a large and increasing number of other power plant projects (particularly large, complicated solar projects) under review by the Siting Transmission and Environmental Protection Division, schedule delays are expected. However, staff is committed to working with all parties to conclude the Preliminary Staff Assessment in the near future.

Staff offers the following revised schedule for the Committee's consideration.

Committee's Initial Schedule	Staff's Current Projected/Schedule	Hearing/Workshop/Planned Event or Filing
31-Oct-07	31-Oct-07	AFC data adequate
17-Dec-07	17-Dec-07	Informational Hearing and Site Visit
N/A	21-Nov-07	Staff transmits Data Request, Set 1
N/A	21-Dec-07	Applicant provides Data Responses, Set 1
8-Jan-08	24-Jan-08	Data Response and Issue Resolution Workshop 1
N/A	28-Feb-08	Staff transmits Data Request, Set 2
N/A	18-Mar-08	Applicant provides Data Responses, Set 2
N/A	26-Mar-08	Data Response and Issue Resolution Workshop 2
N/A	11-Apr-08	Staff files Status Report 1
N/A	8-May-08	Staff files Data Requests, Set 2A
N/A	29-Aug-08	Staff files Data Requests, Set 3
N/A	26-Sept-08	Staff files Data Requests, Set 3B
28-Feb-08	24-Oct-08	PDOC from San Diego County Air Pollution Control District
4-Apr-08	21-Nov-08	Staff files Preliminary Staff Assessment (PSA)
15-Apr-08	16-Dec-08	PSA Workshop (2 days likely)
28-Apr-08	22-Dec-08	Local, state and federal agency final determinations and Air District FDOC
30-May-08	21-Jan-09	Staff files Final Staff Assessment (FSA)
TBD	TBD	Evidentiary hearings*
TBD	TBD	Committee files proposed decision*
TBD	TBD	Hearing on the proposed decision*
TBD	TBD	Committee files revised proposed decision*
1-Nov-08	TBD	Commission Decision*

Shaded items above have been completed

*Committee determines this part of the schedule

cc: Docket (07-AFC-6), Proof of Service List