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CALIFORNIA ENERGY COMMISSION

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CEC-70 (Revised 7/22)



IN THE MATTER OF:

Willow Rock Energy Storage Center

Docket No. 21-AFC-02

**ORDER AFTER PREHEARING CONFERENCE AND FURTHER
INSTRUCTIONS FOR EVIDENTIARY HEARING**

The California Energy Commission (CEC) Committee¹ assigned to conduct proceedings on the Application for Certification (AFC, or application) for the Willow Rock Energy Storage Center (Willow Rock, or proposed project) convened a public Prehearing Conference on August 15, 2025 via Zoom, pursuant to the Notice of Prehearing Conference and Evidentiary Hearing, Fifth Revised Scheduling Order, and Further Orders filed July 17, 2025 (TN 264853)(Notice). Representatives from Gem A-CAES (Applicant), LLC, CEC Staff (Staff), and Intervenor California Unions for Reliable Energy (CURE) and the Center for Biological Diversity (The Center) attended the Prehearing Conference. This is the Committee's order following the Prehearing Conference, including further instructions for the Parties and agency representatives to prepare for the Evidentiary Hearing.

A. Order on the Participation of CURE

On August 7, 2025, Applicant and CURE filed a Joint Statement reflecting a "compromise" between the two Parties on certain disputed issues in the proceeding.² At the Prehearing Conference, the Hearing Officer observed that CURE did not: file any opening or rebuttal testimony; identify any exhibits for admission into the evidentiary record; identify any topic areas CURE believes are still in dispute; nor identify any subject areas on which it desires to

¹ On March 10, 2023, the CEC amended its designation of a committee consisting of Andrew McAllister, Commissioner and Presiding Member and Noemí Gallardo, Commissioner and Associate Member, to preside over any proceedings arising from the Application. (TN 249087.) This and all other documents related to this proceeding may be found in the [online docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-AFC-02) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-AFC-02>.

² TN 265375.

question other Parties' witnesses. CURE indicated that it will not introduce testimony or evidence at the evidentiary hearing. The Hearing Officer reiterated the proviso in the Notice that "Failure by a Party to comply with the filing requirements stated in this Order may preclude that party from participating in the Evidentiary Hearing."

After discussion with the Parties about CURE's role going forward in this proceeding and confirmation by counsel on behalf of CURE, **the COMMITTEE HEREBY ORDERS:**

1. CURE will not be permitted to submit any further written or oral testimony or evidence;
2. CURE will not be permitted to question any of the other Parties' witnesses; and
3. CURE will not be permitted to submit further legal argument including if the Committee permits briefings from the other Parties after the evidentiary hearing on legal matters.

CURE is not required to comply with further procedural orders or instructions that the Committee may require of the Parties for the remainder of this proceeding.

The Committee affirms that it is not bound by the agreements between CURE and the Applicant articulated in their Joint Statement on specific subtopics under Biological Resources, Air Quality/Valley Fever, and Noise, and that the proposed decision may or may not include these agreements. The Committee concurs with Staff that the Applicant shall serve as the primary representative on behalf of itself or CURE for any further legal or evidentiary issues regarding the agreements. While CURE may submit comments in the record going forward related to the three subtopics addressed in the Joint Statement, those comments will be submitted into the administrative record as comments but not as evidence, and the Committee will consider and address them with the appropriate weight.

B. Proposed Schedule for the Evidentiary Hearing

Based on the discussion at the Prehearing Conference after identification of issues appropriate for oral testimony and other agency participation, the Committee provides the following proposed schedule (Table 1) for the hearing including the introduction of oral testimony.

The Parties, witnesses, agency representatives, and the public are advised that the proposed schedule may change. All participants are asked to be available to appear sooner or later than the proposed schedule to adapt to the flow of the hearing, including on Friday August 22, 2025, as provided in the Notice, if necessary for sufficient time for the Parties to introduce their evidence and for the questioning of witnesses by the Committee and Parties.

Proposed Schedule for Evidentiary Hearing Thursday, August 21, 2025		
Topic/Item of Business	Estimated Start Time (Estimated Duration)	Participants
Introduction, Explanation of Procedure, Motions in Limine, Admit Evidence	10:00 am (30 Minutes)	Committee, Hearing Officer, Counsel for the Parties
Public Comment	10:30 am (15 minutes)	Government Agency and California Native American tribe representatives, Public
Air Quality Certification	10:45 am (15 minutes)	Eastern Kern Air Pollution Control District
Biological Resources: Mitigation ratios and acreage, status of incidental take approval from CDFW	11:00 am (120 minutes)	Expert Witnesses from all Parties; California Department of Fish and Wildlife participation
Lunch	1:00 pm (45 minutes)	Lunch
Water Resources: Design, Construction, and Operation of Hydrostatically Compensating Reservoir/Delegation to DSOD/Fees	1:45 pm (120 minutes)	Expert Witnesses from Applicant and Staff; Division of Safety of Dams participation
Break	3:45 pm (15 minutes)	
Cavern Construction: Facility Reliability, Geology, Worker Safety & Public Health	4:00 (120 minutes)	Expert Witnesses from Applicant and Staff
Close Record, Discuss Briefing Schedule	6:00 pm (30 minutes)	Committee, Hearing Officer, Counsel for the Parties
Public Comment	6:30 pm (15 minutes)	
Committee Closing Remarks, Adjourn	6:45 pm (15 minutes)	

C. Scope of the Expert Witness Oral Testimony and Agency Representative Information at the Evidentiary Hearing

Based on the Parties' Prehearing Conference Statements³ and discussion at the Prehearing Conference, the Committee identified the topics and subtopics described below to be appropriate for oral testimony at the Evidentiary Hearing. The Parties shall have the expert witnesses who prepared their prefiled written opening and rebuttal testimony on these topics and subtopics available to provide oral testimony on the same subjects.

Here, the Committee describes the anticipated scope of the testimony based on 1) the unresolved topics and subtopics described in the Parties' Prehearing Conference Statements, and 2) the Committee's desire for oral testimony on certain unresolved topics or subtopics to expound on certain testimony and evidence provided in the Parties' prefiled opening and rebuttal testimony.

The Parties are reminded that the Evidentiary Hearing is for the purpose of ensuring a complete factual and evidentiary record. Stipulations between the Parties on conditions of certification without foundational evidence are insufficient to support the Commission's final decision. The statements of witnesses shall have the proper evidentiary foundation and be relevant to the findings and conclusions that are necessary for the Commission's certification of the application for Willow Rock. Motions in limine, if any, shall be related to the admissibility of evidence, although the Parties indicated that they do not have any intention of filing such motions. Legal argument if needed shall be kept to a minimum and limited to relevance and admissibility of evidence. The expert witnesses to be sworn in shall be prepared generally to address and answer any written testimony included in the Parties' opening and rebuttal testimony on the specified topics and subtopics.

Agency representatives invited to provide informational comment alongside the sworn witnesses are asked to be prepared to address Committee questions generally about the laws, regulations, standards and agency procedures related to their agency's jurisdiction as applied to the Willow Rock project, as more specifically described below. If the Parties have any questions for the agency representatives, the Hearing Officer will field and facilitate those requests.

³ TN 265523 (Applicant), TN 265524 (Staff), TN 265530 (The Center), and TN 265531 (CURE).

1. Air Quality/Emissions

The representative from the Eastern Kern Air Pollution Control District (District) will be asked by the Committee to certify any offsets required for the Willow Rock project, to testify and certify to any emissions offsets for the proposed Willow Rock Energy Storage Center pursuant to Public Resources Code, section 25523(d)(2), and to present and explain the determination of compliance for District rules and regulations pursuant to Cal. Code Regs, title 20, section 1744.5(c).

2. Biological Resources

The Parties shall present expert witnesses on each of the Biological Resources topics or subtopics they have indicated are disputed or unresolved as described in their Prehearing Conference Statements. Specifically, the Parties describe the following as disputed or unresolved: the mitigation acreage and ratios; the treatment of temporary impacts; mitigation for actual impact versus acreage surveyed; definition, identification, and avoidance or mitigation measures for western Joshua tree woodland. The Parties' expert witnesses will each provide a prepared statement summarizing their written opening and/or rebuttal testimony, and the Committee asks that they be prepared to answer questions on those same topics or subtopics from the Committee and other Parties.

The representative from California Department of Fish and Wildlife (CDFW) is asked to review the Parties' Opening and Rebuttal Testimony on Biological Resources⁴ and their Prehearing Conference Statements.⁵ **The Committee may ask questions within CDFW's subject matter expertise regarding:**

- The impacts to and proposed avoidance, minimization, and mitigation measures for western Joshua tree, Crotch's bumblebee, Burrowing owl, and Swainson's hawk;
- The potential for loss or "take" of any federal or state listed plant or animal species, fully protected species, special status species, or species protected by the Migratory Bird Treaty Act or other regulations;
- The unresolved mitigation acreage and ratios;

⁴ Applicant's Opening Testimony (Ex. 1233, TN 265170) Section 4.2 & Applicant's Rebuttal Testimony (Ex. 1234, TN 265265) Sections 2.0, 3.0 & 4.0; Staff's Final Staff Assessment (Ex. 2000, TN 264843) Section 5.2 & Staff's Rebuttal Testimony (Ex. 2001, TN 265268) Section 3; and The Center's Opening Testimony (Ex. 4000, TN 265163) & The Center's Rebuttal Testimony (Ex. 4001, TN 265263.)

⁵ See Footnote 3.

- Information on CDFW's implementation of the Western Joshua Tree Conservation Plan as applied to the Willow Rock project; and
- The laws, regulations, standards, and agency procedures related to the Applicant's applications for incidental take permits for Crotch's bumblebee, Burrowing owl, and whether **revised BIO-12 & BIO-14** as proposed by Staff in its Rebuttal Testimony satisfies CDFW's statutory and regulatory requirements for incidental take for these species and western Joshua tree.

3. Water Resources: Design, Construction, and Operation of Hydrostatically Compensating Reservoir/DWR-DSOD Consultation and Delegation/Fees

The Parties shall present expert witnesses on each of the Water Resources topics or subtopics they have indicated are disputed or unresolved as described in their Prehearing Conference Statements. Specifically, the Parties disagree on the precise legal and technical role of the Department of Water Resources Division of Safety of Dams (DWR-DSOD) in the review and approval of the design, construction, and maintenance of the hydrostatically compensating reservoir. The Applicant also takes issue with paying Dam Safety Program fees to DWR-DSOD. The Applicant characterizes it as a legal dispute and recommends post-hearing briefing. However, based on the Parties' filings and discussion at the Prehearing Conference, the Committee perceives a factual issue or lack of evidentiary clarity as to the manner in which the CEC, its Compliance Project Manager (CPM), and its Delegated Chief Building Official (DCBO) will consult with and/or defer to DWR-DSOD in the lengthy and iterative design, construction, and operation of the reservoir embankment, in keeping with the CEC's exclusive jurisdiction in lieu of other agency approvals of this project.

To ensure clarity in the evidentiary record regarding this interagency relationship, including the timing and sequence of review, verification, approval of all key design, construction, and post-construction inspection deliverables, as well as the payment of fees, the Parties shall have their expert witnesses regarding **WATER-5 & WATER-6** prepared with an opening statement summarizing their written opening and/or rebuttal testimony plus any supplemental evidence that may elucidate and crystallize these topics and subtopics. The Committee asks that the expert witnesses be prepared to answer questions on those same topics or subtopics from the Committee and other Parties.

The representative from DWR-DSOD is asked to review the Parties' Opening and Rebuttal Testimony on Water Resources related to **WATER-5** and **WATER-6**⁶ and their Prehearing

⁶ Applicant's Opening Testimony (Ex. 1233, TN 265170) Section 4.15 & Applicant's Rebuttal Testimony (Ex. 1234, TN 265265) Sections 4.0; and Staff's Final Staff Assessment (Ex. 2000, TN 264843) Section 5.16 & Staff's Rebuttal Testimony (Ex. 2001, TN 265268) Section 9.

Conference Statements.⁷ Since the Willow Rock project is the first thermal power plant considered by the CEC that includes a jurisdictional dam, **the Committee may ask questions within DWR-DSOD's subject matter expertise regarding:**

- A summary of the legal responsibility and technical expertise of the Division under the Water Code generally;
- The laws, regulations, standards, and agency procedures related to the Applicant's proposed design, construction, and operation of the hydrostatically compensating reservoir; and
- The agency's recommendations to properly frame and articulate the respective authority and roles of the CEC's DCBO and the DWR-DSOD regarding the reservoir embankment in this specific project.

4. Cavern Construction: Facility Reliability, Geology, Worker Safety & Public Health

The advanced compressed air energy storage (A-CAES) facility proposed by the Applicant is the first of its kind in California. It appears to be the first A-CAES facility of its size and nameplate capacity featuring a purpose-built cavern. The Committee desires oral testimony based on the prefiled evidence regarding the engineering analyses and construction techniques that support the FSA's conclusions regarding the feasibility of the project design at the current site, the basis for the expected integrity of the cavern, the reliability of the facility's operations over the 50-year life span of the project, and the worker and public safety associated with creating and maintaining the cavern. The Committee seeks to ensure that the evidentiary record contains all foundational evidence and expert testimony necessary to support the analysis, findings, and conclusions that the Willow Rock project is in compliance with all laws, ordinances, regulations, and standards (LORS) regarding the cavern construction and that all environmental impacts findings are based on substantial evidence.

Therefore, even though the Parties did not indicate these issues were in dispute or unresolved, the Committee will empanel the Parties' expert witnesses in the areas of Facility Design, Facility Reliability, Geology, Worker Safety, and Public Health and ask the experts to expound on the evidence including prefiled written testimony already in the record regarding the following topics:

⁷ See Footnote 3.

- The engineering assessments of the characteristics of the subsurface geological resources at the current site that support the feasibility of the construction and operation of the 500 MW A-CAES facility;
- The engineering assessments that support the representation that the facility will be available to operate at full load at least 95 percent of the time;
- An informative summary of California Building Code sections 1803.1 to 1803.7 describing how the DCBO may determine that further geotechnical investigations are necessary under **GEO-1**;⁸
- The “seismically active geologic environment” and potential hazards identified in Geology, Paleontology, and Minerals and proposed for mitigation in **GEO-2**;
- An informative summary of the integrity inspection program for the excavated underground structures in **GEO-3**;
- Best practices and standards for the forthcoming Controlled Detonation Plan anticipated for **WORKER SAFETY-5**;⁹
- Evidence to support the minimization and mitigation of exposure risks for on-site personnel and the general public from Valley Fever in the forthcoming Valley Fever Management Plan in **WORKER SAFETY-7** and **PH-1**.

D. Further Orders and Instructions for Preparing for the Evidentiary Hearing

To summarize important directions and instructions from the Committee during the Prehearing Conference, the Parties shall utilize best efforts to accomplish the following tasks:

1. The Applicant and Staff shall collaborate to prepare a single compendium of proposed conditions of certification (COCs) no later than Tuesday August 19, 2025, at 5:00 p.m.
 - a. Preferably the compendium will include all COCs included in Staff’s FSA as a baseline, along with mark-up and/or annotations to reflect the proposed modifications by the Parties and Staff’s brief rationale for accepting or rejecting the modifications.
 - b. To the extent possible in preparing the compendium, the Committee asks the Parties to use best efforts to revise, refine, or pinpoint as necessary all

⁸ Staff’s Final Staff Assessment (Ex. 2000, TN 264843) Section 4.1 Facility Reliability & Section 5.6 Geology, Paleontology, and Minerals.

⁹ Staff’s Final Staff Assessment (Ex. 2000, TN 264843) Section 4.4-1 & Section 5.10.

references in the COCs to the various types of construction (i.e. surface construction, access shaft excavation, transmission line construction, cavern construction, etc.) to add clarity to when key deliverables are due.

The Committee acknowledges that the compendium is currently an iterative, dynamic document, and what is submitted prior to the Evidentiary Hearing will be subject to further revision as appropriate.

2. The Parties shall submit a list of their expert witnesses no later than Tuesday, August 19, 2025, at 5:00 p.m. The table below provides a uniform manner for each Party to submit their witness list.

[Party Name] Witness List			
Topic/ Subtopic	Witness Name, Title, Organization	Estimated Time of Opening Statement	In- person/Remote
[Topic and/or related COC]			

E. Instructions for Attendance at the Evidentiary Hearing

All instructions for attendance at the Evidentiary Hearing are provided in the [Notice of Prehearing Conference and Evidentiary Hearing](https://efiling.energy.ca.gov/GetDocument.aspx?tn=264853&DocumentContentId=101616) at

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=264853&DocumentContentId=101616>.

As provided in the Notice, the **EVIDENTIARY HEARING** will be conducted in-person and remotely via Zoom on:

**THURSDAY, AUGUST 21, 2025
and FRIDAY, AUGUST 22, 2025, if needed**
Start Time 10:00 a.m. each day – End time 5:00 p.m. each day
MOJAVE AIR & SPACE PORT/Stuart O. Witt Event Center
1247 Poole Street
Mojave, CA 93501

Remote Access for the public is available via ZOOM

- Zoom links for both events are provided in the Attendance Instructions in the [Notice of Prehearing Conference and Evidentiary Hearing](https://efiling.energy.ca.gov/GetDocument.aspx?tn=264853&DocumentContentId=101616), which is available at: <https://efiling.energy.ca.gov/GetDocument.aspx?tn=264853&DocumentContentId=101616>.
- For any Party representative, witness, or agency representative appearing remotely via Zoom, the Hearing Office asks that those persons send an email to Blanca.Camberos@energy.ca.gov no later than Wednesday August 20, 2025 at 5:00 p.m. to request a panelist link.

At the Prehearing Conference, there was a general concurrence that the Evidentiary Hearing may be able to conclude on Thursday, August 21, 2025. None of the Parties expressed any objection to extending the time of the hearing an hour or two past 5:00 p.m. if adjournment on that day is foreseeable. However, the Committee shall prioritize the Parties' interest in having sufficient time to introduce their evidence and question the other Parties' expert witnesses, as well as the opportunity for participation by other agencies, California Native American tribes, and the public, so the hearing may continue on Friday, August 22, 2025, if appropriate. If the Evidentiary Hearing adjourns on August 21, 2025, it will not convene nor continue on August 22, 2025, and the Presiding Member will post a notice of adjournment in the Docket and on the door of the meeting room.

Direct questions of a procedural nature to the assigned Hearing Officer:

- Reneé Webster-Hawkins, at renee.webster-hawkins@energy.ca.gov or (916) 237-2507.

Direct technical subject inquiries concerning the proceeding to the Project Manager:

- Eric Veerkamp, at STEPsiting@energy.ca.gov or (916) 661-8458.



IT IS SO ORDERED.

Dated: August 18, 2025

APPROVED

J. Andrew McAllister, PhD
Commissioner and Presiding Member
Willow Rock Energy Storage Center
AFC Committee

APPROVED

Noemí Otilia Osuna Gallardo
Commissioner and Associate Member
Willow Rock Energy Storage Center
AFC Committee