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

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| Application for Certification for the Sun Valley Energy Project | Docket No. 05-AFC-3 |

# VALLE DEL SOL ENERGY, LLC REQUEST FOR ADDITIONAL SUSPENSION

June 10, 2014


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

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**VALLE DEL SOL ENERGY, LLC**
**REQUEST FOR ADDITIONAL SUSPENSION**

Pursuant to Section 1716.5 of the regulations of the California Energy Commission ("Commission"), Valle Del Sol Energy, LLC ("Valle Del Sol") respectfully submits this request for an additional one-year suspension of this proceeding. This proceeding addresses Valle Del Sol's application for certification ("AFC") of the Sun Valley Energy Project (the "Sun Valley Project"), a proposed 500 megawatt natural gas-fired peaking plant comprised of five General Electric LMS-100 gas turbines to be located in the City of Menifee, California within the jurisdiction of the South Coast Air Quality Management District ("SCAQMD"). As reported previously, as a result of an acquisition that closed in April 2014, Valle Del Sol is now an indirect wholly owned subsidiary of NRG Energy, Inc. ("NRG"). The Committee previously granted suspensions of this proceeding, most recently in an order dated June 13, 2013. The current suspension expires June 30, 2014.

Valle Del Sol requested the previous suspensions due to permitting difficulties associated with the unavailability within the South Coast Air Basin of emission offsets from the market that would be needed to satisfy applicable SCAQMD rules. Those permitting difficulties still exist and more time is needed to develop offsets to support the Sun Valley Project, as explained in section 1 below. A further extension also would afford more time to identify contracting opportunities that support development of the Sun Valley Project, which is well located to provide flexible capacity and services, particularly in light of the permanent retirement of the 2200 megawatt San Onofre Nuclear Generating Station ("SONGS"), as explained in section 2 below. For these reasons, Valle Del Sol requests an additional one-year suspension.

## 1. More Time Is Needed To Develop A Viable Emission Offset Strategy.

When the AFC was filed, Valle Del Sol intended to access SCAQMD "Priority Reserve" credits pursuant to SCAQMD Rule 1309.1 (as amended on August 3, 2007) as the source of offsets for several criteria pollutants. SCAQMD Rule 1309.1 as so amended would have allowed the use of the Priority Reserve credits for power plant projects such as the Sun Valley Project. Since that time, however, SCAQMD Rule 1309.1 (as amended on August 3, 2007) was challenged in court and the SCAQMD has not pursued a rulemaking that would allow power plant projects to access Priority Reserve credits.

Given the unavailability of the Priority Reserve credits, it has been necessary to pursue alternative sources of emission offsets. Unfortunately there are few options for power plants located in the South Coast Air Basin. The Legislature recognized this problem in Assembly Bill 1318 ("AB 1318"), which requires the State Air Resources Board ("ARB"), in consultation with this Commission, the California Public Utilities Commission ("CPUC"), the California Independent System Operator ("CAISO"), and the State Water Resources Control Board, to prepare a report for the Governor and Legislature that evaluates the electrical system reliability needs of the South Coast Air Basin. The Legislature directed that the report should include recommendations for meeting reliability needs while ensuring compliance with state and federal law. The Legislature also directed that, if additional fossil fueled electricity generation facilities are needed, the report should include recommendations for long-term emission offsets availability and options to ensure sustainable permitting of additional needed capacity. This requirement reflects the unavailability of emission offsets for power plants under SCAQMD's current program, and recognizes that acquiring offsets from other sources is "a challenging task given the scarcity and exorbitant price of private market emission reduction credits in the SCAQMD." [1]

The AB 1318 effort has been underway since 2010, and a draft report, titled *Assembly Bill 1318: Assessment of Electrical Grid Reliability Needs and Offset Requirements in the South Coast Air Basin Coast Air Basin* ("Draft AB 1318 Report") was released for public comment in October 2013. The Draft AB 1318 Report indicates that the SCAQMD's current permitting program, through its Rule 1304, is able to address the offsets obligation for existing gas-fired units in the South Coast Air Basin that utilize once through cooling ("OTC") technology and plan to comply with OTC regulations by repowering with non-OTC technology.[2]
Rule 1304(a)(2) provides an exemption to the requirement to provide offsets for the replacement

[1] Draft Work Plan for the *Assessment of Electrical System Reliability Needs in South Coast Air Basin and Recommendations on Meeting those Needs,* prepared by the Interagency AB 1318 Technical Team (January 2011), p. 3.

[2] Draft AB 1318 Report, pp. iii-iv.

of an electric steam utility boiler with more efficient or advanced technology, such as a combined-cycle natural gas turbine, provided that the replacement project does not increase basin wide generating capacity. Although utility boiler replacements are exempt from offset requirements, the SCAQMD still provides such offsets from its internal offset bank in a quantity equal to the potential to emit of the replacement gas turbine capacity.[3]

The Draft AB 1318 Report suggests that the SCAQMD internal bank could supply the necessary offsets for OTC replacement units with compliance dates through 2020.[4] However, the Draft AB 1318 Report indicates that for new capacity that is not linked to retirement of existing steam boiler facilities (and therefore not eligible for Rule 1304), the only options available under the current permitting system include purchasing offsets from other sources or funding emission reduction projects to generate their own offsets.[5] The Draft AB 1318 Report also finds that drawing from the internal offset bank to support only projects eligible for Rule 1304 treatment is not a sustainable permitting option for the long-term, and recommends that, given the amount of time required to obtain the necessary approvals to build new power plants, and the expectation that new generation will be required at some point past 2022, the ARB should partner with the SCAQMD to form a working group that will identify options and make recommendations at the earliest practicable date to address long term permitting needs.[6] Given the challenges involved in developing a long-term offset strategy, more time is needed to pursue this undertaking.

The Sun Valley Project offers the potential to provide a source of flexible generating capacity to support system needs, particularly with the June 2013 announcement of Southern California Edison ("SCE") to permanently retire SONGS and with the fast approaching OTC deadlines that affect other in-basin steam boiler units, but it is not designed to replace OTC units facing a compliance deadline. SCAQMD has initiated rulemaking with the proposed Rule 1304.2, which would make the SCAQMD's internal offset bank available to power plant developers without steam boiler capacity.[7] This rulemaking effort has recently begun and it will

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3 *See id.*, pp. 55-56.

4 *Id.*, pp. iii-iv.

5 *Id.*, p. 56.

6 *Id.*, p. v.

7 At its February 7, 2014 meeting, the SCAQMD Board approved a recommendation by SCAQMD staff to proceed with rulemaking to expedite natural gas power plant capacities to be permitted in SCAQMD, if needed. Staff proposed to develop a regulation (Proposed Rule 1304.2) or an amendment to

take substantial time to complete rule development and achieve adoption. In addition, following NRG's acquisition of Valle Del Sol, there could be opportunities to devise an offset strategy that involves existing steam boiler units in the NRG-owned fleet using the offset exemption in Rule 1304(a)(2). These strategies will need to be considered carefully, particularly because the viability of using Rule 1304(a)(2) or the proposed Rule 1304.2 is also affected by the substantial fees required of projects that utilize the internal bank. For these reasons, more time is needed to develop a viable offset strategy for the Sun Valley Project.

**2. Extending the Suspension Would Afford More Time to Pursue Contracting Opportunities.**

Valle Del Sol also continues to pursue contracting opportunities that would support development of the Sun Valley Project. A continued suspension of this proceeding would allow more time for that effort. The need for new flexible generating resources is being evaluated in the CPUC's long term procurement plan ("LTPP") process. In the last LTPP proceeding, the CPUC directed SCE to procure new electrical capacity to meet local reliability needs in its service territory. A new LTPP proceeding is now underway that is considering the need for flexible generating capacity and other resources to meet long-term reliability needs. The LTPP process may lead to additional contracting opportunities for the Sun Valley Project.

The Sun Valley Project would provide capacity and energy to serve reliability needs in Southern California. The Sun Valley Project would support integration of increasing levels of generation from renewable resources including wind and solar with its quick start (10 minutes) and fast ramping capability. The Sun Valley Project also would meet the objectives of the SCAQMD's 2011 "Air Quality-Related Energy Policy," which promotes clean energy technologies and "recognizes that fossil fuel electricity generation will still be needed in the Basin to complement projected increased use of renewable energy sources."[8]

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Rule 1304.1 that will allow power plants to access the SCAQMD's internal offset account to meet offset requirements by paying mitigation fees. Power plants accessing the offsets can be located at a new site or an existing power plant expanding its capabilities beyond its existing permitted capacity. The SCAQMD Board approved the staff recommendation, which contemplates bringing a regulatory proposal to the SCAQMD Board for consideration in the third quarter of 2014. *See Minutes of the February 7, 2014 SCAQMD Board Meeting*, pp. 8-14.

[8] SCAQMD *Air Quality-Related Energy Policy* (September 9, 2011).

The Sun Valley Project is in an excellent location for peaking power generation because of the convergence of required infrastructure. It is located adjacent to high-pressure natural gas transmission lines and recycled water supply and an industrial wastewater discharge line is less than a mile away. Valle Del Sol has completed certain required transmission interconnection studies and CAISO is currently evaluating mitigation opportunities for the loss of SONGS, which may include a transmission interconnection that would allow the Sun Valley Project to provide capacity to the San Diego area. In addition, Valle Del Sol owns the 20-acre Sun Valley Project site, so there is no uncertainty regarding land ownership or site control.

Because the ongoing planning processes could lead to competitive solicitations for new capacity or services, Valle Del Sol asks the Committee to keep the Sun Valley Project in suspension to reflect its continued status as a project that is in development and available for contracting. Any determination that could be construed as a termination or cancellation would be contrary to Valle Del Sol's intent to continue to pursue its development, and would send the wrong signal to potential buyers of the Sun Valley Project's output.

**3. Conclusion.**

For these reasons, Valle Del Sol requests an additional one-year suspension. Valle Del Sol will submit suspension status reports according to any schedule established by the Commission. Valle Del Sol appreciates the Commission's consideration of this request.

June 10, 2014

Respectfully submitted,

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