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STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the matter of:

Application for Certification of the
PUENTE POWER PROJECT

DOCKET NO. 15-AFC-01

**THE CITY OF OXNARD'S MOTION TO
EXTEND DISCOVERY DEADLINE BY 90
DAYS**

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I. Introduction

The discovery period in the proceeding is currently scheduled to expire on December 7, 2015. But in the past two weeks, NRG has submitted two substantial amendments to its Application for Certification: (1) expanding the application's project description to include demolition of Units 1 and 2 of the Mandalay Generating Station, and (2) substantially revising air quality emission estimates, modeling, and other impact assessments for the proposed Puente facility. At the same time, the City of Oxnard has outstanding data requests that could produce new additional new information requiring analysis in this proceeding. Especially in light of the holiday season, the Parties and Commission staff need additional time to evaluate new information submitted by the applicant and develop any necessary data requests. The City therefore requests that the Committee extend the discovery deadline by 90 days.

II. There Is Good Cause to Extend the Discovery Deadline by 90 Days.

Under the Commission's discovery rules, parties may initially submit requests for information for up to 180 days after the Commission determines that an application is complete. Cal. Code Regs., tit. 20, § 1716(e). The Committee may extend this deadline upon a party's showing of good cause. *Id.*

Here, the Commission accepted NRG's Application for Certification as complete on June 10, 2015. Thus, the 180-day discovery period is currently scheduled to conclude on December 7, 2015. But in the last two weeks—nearly six months after the Commission's data adequacy determination—NRG has materially modified its application.

First, on November 19, 2015, NRG significantly expanded its project description. In addition to seeking to construct the Puente facility, NRG now proposes to demolish existing the existing Units 1 and 2 at the proposed project site. *See* NRG, Project Enhancement and Refinement, Demolition of Mandalay Generating Station Units 1 and 2 (TN # 206698). This new

proposal is encompassed in a 170-page addendum to the application, which contains entirely new analysis of environmental impacts associated with the proposed demolition. It also includes technical appendices addressing the new air emission and traffic impacts that demolition would cause.

Second, on November 30, 2015, NRG submitted additional responses to staff's set two data requests. *See* NRG, Applicant's Responses to CEC Data Request, Set 2 (TN # 206791). Embedded within these responses are new or substantially revised calculations of air quality and public health impacts, new emission modeling input data, and new calculations of project impacts from nitrogen deposition. *See id.*, Appendices 49-1 and 68-1. On the same day, NRG submitted revised the air quality modeling files to the Commission. Due to their size, the new modeling files are not available through the online docket, but must be obtained from the Commission via a CD instead.¹ *See* Commission Staff, Revised Air Quality Modeling Files Available (TN # 206789). Moreover, NRG has not provided the City with unlocked spreadsheets regarding emission calculations for either the original air quality analysis or NRG's latest revised analysis. This information is critical to understanding the basis upon which NRG has calculated the air pollution emissions from the proposed project. Although NRG has agreed in principle that it will provide this information pursuant to a confidentiality agreement, the City has not yet received the information.

Notably, NRG has had months to develop this new information. The Parties and staff likewise need time to evaluate the information and develop any necessary data requests, especially given the volume and, in places, highly-technical nature of the new application

¹ The City has requested these new modeling files and anticipates receiving them within the next week.

materials. Additionally, holiday travel plans and other engagements will limit City staff and consultants' availability to review the materials during the next month. For these reasons, there is good cause to extend the discovery deadline in this proceeding by 90 days, to March 16, 2016.

Finally, as discussed more fully in the City's Petition to Compel Applicant's Production of Data (TN # 206723), the City has discovery requests that have been outstanding for months. Any materials that NRG submits in response to these outstanding requests may also require additional discovery. For this reason as well, there is good cause to extend the discovery period.

III. Conclusion

For the foregoing reasons, the City of Oxnard respectfully requests that the Committee extend the December 7, 2015 discovery deadline to March 6, 2016.

DATED: December 2, 2015

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