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STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	)	Docket No. 15-AFC-01
)	
APPLICATION FOR CERTIFICATION FOR	)	APPLICANT’S RESPONSE TO CITY OF
THE PUENTE POWER PROJECT	)	OXNARD’S PETITION TO COMPEL
	)	PRODUCTION OF DATA
)	
)	

Applicant hereby responds to the City of Oxnard’s Petition to Compel Applicant’s Production of Data filed on November 20, 2015 (TN# 206723) (“Petition”).

Introduction

The Petition requests that the Committee issue an order directing Applicant to produce three types of air quality information pertaining to the Puente Power Project (“Project”): 1) emission spreadsheet files supporting emission calculations for the Project (Petition at pp. 2-5); 2) vendor emission guarantees for the proposed Project turbine (Petition at pp. 5-7); and 3) emissions test data for hazardous air pollutants and criteria pollutants for the proposed Project turbine (Petition at pp. 7-8).

As the Petition correctly points out, California Code of Regulations, Title 20, Section 1716(b) permits any party to the proceedings to request of the applicant information that is: (1) “reasonably available to the applicant;” and (2) “relevant to the notice or application proceedings or reasonably necessary to make any decision on the notice or application.” California rules of civil procedure make documents discoverable if those documents are in the possession, custody, or control of the party from which they are sought (CCP § 2031.10). As explained below, the information requested in the Petition is either not reasonably available to the Applicant, not relevant to review of the Project, or both.

Discussion

1. Emission Spreadsheets

Applicant has agreed to provide to the City the current confidential emission spreadsheet files pursuant to a Nondisclosure Agreement (“NDA”) between Applicant and the City.

Emission spreadsheet files reflecting current emission values and operating parameters from the turbine manufacturer, the currently anticipated operating profile for the Project, and updated modeling procedures, were submitted to the California Energy Commission (“CEC”) staff pursuant to a request for confidential designation on December 2, 2015 (TN# 206818).

Declaration of Gary Rubenstein in Support of Applicant’s Response to the City of Oxnard’s Petition to Compel (“Rubenstein Decl.”) (Attachment A hereto) ¶ 6. On that same day, Counsel for Applicant sent counsel for the City a revised proposed NDA (multiple drafts of which had already been exchanged between the parties) indicating that if the proposed NDA was acceptable to the City, Applicant was prepared to execute it and thereafter provide the requested emission spreadsheet files. Declaration of Michael Carroll in Support of Applicant’s Response to the City of Oxnard’s Petition to Compel (“Carroll Decl.”) (Attachment B hereto) ¶ 6.

Notwithstanding Applicant's willingness to provide to the City unlocked emission spreadsheet files that accurately reflect the anticipated emissions associated with the Project, which is what the City asked for in the first place, the City now seeks to compel Applicant to provide outdated versions of the emission spreadsheet files originally provided to the CEC staff in response to Commission Data Request Set 1, Data Request No. 2 (TN #205389). New information from the turbine vendor and other changes to the Project resulted in the need to completely redo the emissions modeling for the Project. Rubenstein Decl. ¶ 6. The previously provided emission spreadsheet files are outdated and irrelevant, and have been withdrawn from the CEC by Applicant. *Id.* ¶ 7. See Letter Regarding Withdrawal of Prior Responses to CEC Staff Data Request #2, dated October 30, 2015 (TN# 206457).

Contrary to assertions in the Petition, the outdated emission spreadsheet files are not in any way relevant or reasonably necessary to the environmental review of the Project. *Id.* As clearly laid out in the Revised Air Quality/Public Health Analysis set forth in Appendix 49-1 of Applicant's Responses to CEC Data Request Set 2, docketed on November 30, 2015 (TN# 206791), the updated analysis includes: i) new information from the turbine vendor; ii) changes to the modeling procedures; iii) changes in the proposed operating profile of the turbine; and iv) changes to the sequencing of the new turbine coming on line and the shutdown and decommissioning of the existing adjacent Mandalay Generating Station (MGS) Units 1 and 2. *Id.* ¶ 6. The specific changes include:

- Reduction in the guaranteed maximum hourly PM10/PM2.5 emission rate from 10.6 to 10.1 pounds per hour for the proposed turbine.

- Updated turbine performance runs that include revised heat input and stack exhaust characteristics and updated NO_x, CO, and ROC hourly mass emission levels (due to changes in exhaust parameters) for the various turbine operating cases.
- Updated turbine performance runs that include lowered minimum emissions compliance loads (MECL) for the various ambient temperature operating cases.
- A reduction in the annual capacity factor for the turbine from approximately 28% to approximately 25% to better reflect the expected future operation of the unit.
- Changes to the modeling procedures, including:
 - Use of AERMOD version 15181, as opposed to the previously used AERMOD version 14134.
 - Use of new meteorological data processed with AERMET version 15181, as opposed to the previous modeling, which used AERMET version 14134.
 - Use of an updated five-year meteorological database covering the period from 2010 to 2014, versus the previous modeling which used a 2009 to 2013 meteorological database.
 - Use of updated background ambient hourly ozone/NO₂ data covering the period from 2010 to 2014, versus the previous modeling which used 2009 to 2013 hourly ozone/NO₂ background ambient data.
 - Use of the AERSCREEN fumigation model, versus the previous fumigation modeling, which used the SCREEN3 model.
- Changes to the sequencing of the new turbine coming on line and the shutdown and decommissioning of existing MGS Units 1 and 2, as explained in detail in the

Project Enhancement and Refinement, Demolition of Mandalay Generating Station Units 1 and 2, docketed on November 19, 2015. (TN# 206698). *Id.*

Given the extensive changes to the air quality modeling analysis described above, the outdated emission spreadsheet files sought by the City are not at all reflective of anticipated emissions from the Project, and therefore not relevant or necessary for assessment of potential project impacts. *Id.* ¶ 7 and ¶ 8. Nor are the outdated emission spreadsheet files needed to understand the revised air quality modeling analysis, as all of changes that were made are clearly set forth in the revised analysis, and the revised analysis stands on its own. *Id.* Since Applicant has withdrawn the outdated emission spreadsheet files from the CEC docket, an action that CEC staff has not objected to, and CEC and Ventura County Air Pollution Control District (VCAPCD) staff will not be relying on the outdated files in their evaluation of the Project, it is not at all clear why the City believes it needs the outdated files to adequately review the Project. *Id.* ¶ 8.

In sum, the outdated emission spreadsheet files sought by the City fail to meet the standard of being relevant or reasonably necessary for review of the Project. Instead of pursuing outdated analysis, the City should execute the NDA that the parties have negotiated so that Applicant can provide it with the current and relevant analysis.

2. Vendor Guarantees

Applicant has already docketed written statements from the turbine vendor, General Electric (GE), confirming the emission rates of the proposed turbine. As acknowledged in the Petition, the initial emission rates were included in AFC Appendix C-2, Table C-2.3 (TN# 204220-3) (Attachment C hereto). GE subsequently updated the particulate matter emission rate in a statement not mentioned in the Petition, which was docketed on November 3, 2015 (TN# 206503) (Attachment D hereto). To date, Applicant has not negotiated final

commercial guarantees with GE. Declaration of Dawn Gleiter in Support of Applicant's Response to the City of Oxnard's Petition to Compel ("Gleiter Decl.") (Attachment E hereto) ¶ 6.

The information provided by GE in Attachments C and D cited above is the type and form of information from equipment vendors routinely relied upon by applicants and CEC staff to determine and evaluate project emissions. Rubenstein Decl. ¶ 9. This information, provided by one of the world's largest and most reputable turbine manufactures, whose turbines are successfully operating at many facilities throughout California, is sufficient to substantiate the expected emission performance of the turbine. *Id.* Notably, neither the CEC air quality staff nor the staff of the VCAPCD have requested any additional information from the turbine vendor in order to complete their review of the Project.

The City's claims that additional information is required from GE to ensure that the turbine will meet stated emission rates over the life of the Project are also unfounded. Emission performance will be assured not by any information provided by the turbine vendor, but by conditions of certification jointly developed by the CEC and VCAPCD staff. The conditions will require the Project to meet specific emission limits over its operating life, assuring that actual emissions will not exceed those projected in Applicant's analysis. *Id.* ¶ 12. Compliance with the limits will be verified through monitoring and testing throughout the life of the Project. *Id.* ¶ 10 and ¶ 11.

Thus, to the extent that the City is seeking information from GE beyond what has already been provided, such information is neither necessary for review of the Project, nor reasonably available to Applicant.

3. Test Data

Applicant does not possess the emissions test data requested in the Petition and is not aware that such data exists. Gleiter Decl. ¶ 7.

Furthermore, such test data is not necessary for the environmental review of the Project. Rubenstein Decl. ¶ 13. The normal operation and startup/shutdown emission estimates used in the analysis of air quality impacts for the Project are based on emissions levels provided by GE for the exact make and model of turbine proposed for the Project, at the Project location. *Id.* Emissions test data, such as that requested in the Petition, is not routinely provided by equipment vendors to applicants, or by applicants to the CEC in connection with CEC jurisdictional projects. *Id.* Instead, applicants and CEC staff rely on emissions estimates provided by equipment vendors and generally accepted emission factors. *Id.* ¶ 13 and ¶ 14. With respect to emissions of toxic air contaminants, because of the conservative nature of the emission factors used in Applicant's analysis, the identified risk from the Project (which is well below significance levels) is likely overstated. *Id.* ¶ 14. Again, we note that neither the CEC nor VCAPCD staff has indicated that test data of the sort requested by the City is necessary for review of the Project.

Thus, the test data sought by the City is neither necessary for review of the Project, nor reasonably available to Applicant.

Conclusion

The information sought in the Petition either is not within the possession, custody, or control of Applicant and therefore not reasonably available to the applicant, and/or not relevant to the application proceedings or reasonably necessary to make a decision on the application.

The information thus falls outside the scope of information that must be produced pursuant to California Code of Regulations, Title 20, Section 1716(b) and the Petition must be denied.

DATED: December 7, 2015

Respectfully submitted,

/s/ Michael J. Carroll

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant

ATTACHMENT A

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the matter of:	)	DOCKET NO. 15-AFC-01
)	
Application for Certification of the	)	DECLARATION OF GARY
PUENTE POWER PROJECT	)	RUBENSTEIN IN SUPPORT OF
	)	THE APPLICANT'S RESPONSE TO
	)	THE CITY OF OXNARD'S
	)	PETITION TO COMPEL

DECLARATION OF GARY RUBENSTEIN

I, Gary Rubenstein, declare as follows:

1. I am presently employed by Sierra Research as a Senior Partner.
2. A copy of my professional qualifications and experience is attached and incorporated by reference in this declaration.
3. This declaration was prepared with my input and under my direction.
4. It is my professional opinion that the following declaration is true and accurate with respect to the issues that it addresses.
5. I am personally familiar with the facts and conclusions contained in this declaration and if called as a witness could testify competently thereto.
6. It was necessary to update the emissions calculations for the Puente Power Project (P3) because the combustion turbine generator (CTG) vendor, General Electric (GE), provided updated CTG performance runs and a reduction in the maximum hourly PM₁₀/PM_{2.5} emission rate from 10.6 to 10.1 lbs/hr. The updated CTG performance runs include revised heat input and stack exhaust characteristics for the P3 CTG, and updated NO_x, CO, and ROC hourly mass emission levels (due to changes in exhaust parameters) for various gas turbine operating cases. In addition, the updated gas turbine performance runs include lower minimum emissions compliant loads for the various ambient operating cases. The updated P3 emissions calculations provided in Applicant's response to California Energy Commission (CEC) Data Request No. 2 also reflected the phased shutdown of Mandalay Generating Station (MGS) Units 1 and 2, as discussed in the Project Enhancement and Refinement, Demolition of Mandalay Generating Station Units 1 and 2, docketed on November 19, 2015, (TN# 206698). The air quality/public health analysis originally provided in the Application for Certification (AFC) assumed that MGS Units 1 and 2 would be permanently shut down following completion of the

commissioning period for the new P3 CTG. For the updated emission calculations and air quality/public health analysis, it is assumed that MGS Unit 2 will be permanently shut down at the end of the commissioning period for the P3 CTG, and that MGS Unit 1 will be permanently shutdown by the applicable once-through cooling compliance deadline of December 31, 2020. The revised air quality analysis also used updated modeling procedures and data.

7. The changes to the emission calculations for the P3 described in paragraph 6 above make the original emission calculations included in the AFC, and the supporting emission spreadsheet files, irrelevant to the environmental review of the project.
8. In Dr. Phyllis Fox's declaration ("Fox Declaration") in support of the City of Oxnard's Petition to Compel (TN# 206724) ("City's Petition"), with respect to the City's request for the Applicant's original confidential live emission calculation Excel spreadsheet, Dr. Fox states "...Additionally, the nature of the applicant's forthcoming changes to the emission calculations cannot be verified without access to the original spreadsheet..." Fox Declaration ¶6. I disagree. The detailed emissions calculations for the P3 have been changed and the original detailed emissions calculations for the P3 are outdated and no longer relevant for the review of the project's environmental impacts. Given that the emissions calculations for the P3 have been revised, all of the air dispersion modeling has been updated to reflect these revised emission estimates, and the Ventura County Air Pollution Control District (VCAPCD) and CEC staff will be preparing their analyses based on this updated information, there is no useful benefit in comparing the original outdated detailed emissions calculations to the revised emission calculations. If for some purely academic exercise Dr. Fox believes such a comparison would be interesting, a comparison could be done by comparing the original detailed emissions calculation tables in the Application for Certification ("AFC") (i.e., Appendices C-2 and C-8) to the revised version of these tables included in the Applicant's response to CEC Data Request Number No. 2 (TN# 206791).
9. Dr. Fox states "...Information in the vendor guarantee is essential to ascertain whether the proposed emission limits can be met under all operating conditions over the life of the facility. This is particularly critical as continuous emission monitoring is proposed only for NOx. Infrequent stack tests are typically required for other parameters – CO, VOC, and total particulates, and stack tests generally are not required for startups and shutdowns. Infrequent stack tests, or no stack tests at all, are not adequate to assure that the facility will meet the stated emission levels over the life of the facility under all potential operating conditions. The actual vendor guarantee(s) must be reviewed to confirm that the facility can meet the proposed limits over its proposed lifetime under all conditions. ..." Fox Declaration ¶10. I disagree. As discussed in the Applicant's response to the City's Data Request No. 5 filed on September 3, 2015 (TN# 206009), in the January 9, 2015 letter from GE Energy, a copy of which is included in Appendix C-2 of the AFC, "GE confirms that the . . . 7HA.01 gas turbine, installed in a simple cycle configuration and equipped with an SCR and CO catalyst will achieve" the steady state operation emission values identified in the letter. The emission values identified in the January 9, 2015 letter from GE and the updated GE letter regarding lower particulate

emissions dated October 28, 2015 (included in the Applicant's Response to CEC Data Request No. 2 filed on November 30, 2015) reflect the guarantee values that GE would include in commercial documents related to the sale of the CTG to the Applicant. It is my professional opinion that such values are of sufficient quality to serve as the basis for environmental reviews for the P3. It is also my professional opinion that it is customary to use such documents – and not commercial guarantee documents – to support environmental permitting reviews because commercial guarantee documents for power projects in California are rarely available prior to the completion of required environmental reviews.

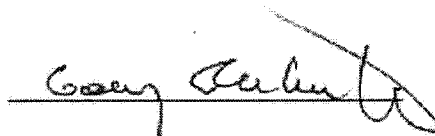
10. It is unclear to me what the basis is for Dr. Fox's statement that "continuous emission monitoring is proposed only for NOx..." Fox Declaration ¶ 10. The Applicant has not proposed, and does not decide, which type of continuous emissions monitoring systems will be installed on new equipment. This will be determined by the VCAPCD and CEC. Based on long-standing permit practice in California, I expect that the VCAPCD/CEC will require the installation/operation of NOx, CO, and O₂ continuous emissions monitoring systems for the P3 CTG.
11. With regards to the Dr. Fox's assertion that stack testing for pollutants such as volatile organic compounds (VOCs) and particulates is not adequate to assure that the facility will meet the stated emission levels over the life of the facility (Fox Declaration ¶ 10), in my experience for these pollutants stack testing is not only the standard method to ensure compliance with emission limits for VOCs/particulates but is the best method to ensure compliance with permit limits over the life of a facility.
12. With regards to Dr. Fox's general assertion that vendor guarantees are necessary to ensure compliance with the P3 emission levels (Fox Declaration ¶ 10), I strongly disagree. In my career, I have worked on projects where, based in part on my recommendations, an applicant has proposed (and complied with) emission limits lower than vendor guarantees. Regardless of any language in commercial vendor guarantees, the VCAPCD permit/CEC approval will be issued to the owner/operator of the P3, and these agencies will hold the owner/operator of the P3 responsible for ensuring compliance with permit limits over the life of the project, and not the equipment vendors.
13. Dr. Fox states in regards to the Applicant's use of vendor supplied emission levels for the P3 CTG "...the applicant simply asserts that it is 'customary to use vendor supplied emission rates to determine project impacts.' The 'customary' practice is not adequate here because the proposed turbine is a new model with no commercial operating experience. The measurements that form the basis of the vendor's estimates are necessary to confirm the asserted emissions." Fox Declaration ¶ 12. I disagree. The normal operation and startup/shutdown emission estimates used in the analysis of air quality impacts for the P3 CTG are based on emissions levels provided by the CTG vendor, GE, for the exact make and model of CTG proposed for the project, at the P3 location. Emissions test data, such as that requested in the Petition, is not routinely provided by equipment vendors to applicants, or by applicants to the CEC in connection

with CEC jurisdictional projects. Instead, applicants and CEC staff rely on vendor emission estimates and established emission factors.

14. Dr. Fox states in regards to the Applicant's use of AP-42 and CATEF emission factors to estimate toxic air pollutant (TAC) emissions for the P3 CTG "In the response to Data Request 77, the applicant also asserts that it is 'customary' to use AP-42 and CATEF emission factors to estimate HAPs. As noted in paragraph 12, customary practice is not relevant here as this turbine has no commercial operating experience. The test data that the vendor has collected is needed to verify the applicant's claim." Fox Declaration ¶14. I disagree. As discussed in the Applicant's objection to City Data Request No. 77 filed on October 21, 2015 (TN# 206410), the Applicant does not possess TAC test data (including vendor test data) for the make/model CTG proposed for the P3. However, as also discussed in the response, the AP-42/CATEF emission factors do not account for the lower TAC emissions associated with a new fast start GE 7HA.01 CTG equipped with dry low-NOx combustion combined with an oxidation catalyst system. Therefore, the use of the CATEF/AP-42 TAC emission factors is conservative and likely overestimates the TAC emissions for the P3 CTG. Even with the conservative nature of these TAC emission factors/emission calculations, as shown on Table 4.9-4 of the AFC the maximum modeled public health impacts are below significance levels. The same conclusion regarding public health impacts being below significance levels is also shown in the revised results provided as part of Applicant's response to CEC Data Request No. 2 docketed on November 30, 2015 (TN# 206791). It is also important to note that, in previous cases in which Dr. Fox and I have both participated, she has cited AP-42 and/or the CATEF database for a variety of purposes, including the identification of TAC emissions from gas turbine power plants. I am not aware of any reason why these data sources should not be used to estimate emissions from the P3.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed December 7, 2015, at Sacramento, California.



Gary Rubenstein

ATTACHMENT B

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the matter of:	)	DOCKET NO. 15-AFC-01
)	
Application for Certification of the	)	DECLARATION OF MICHAEL
PUENTE POWER PROJECT	)	CARROLL IN SUPPORT OF
	)	THE APPLICANT'S RESPONSE TO
	)	THE CITY OF OXNARD'S
	)	PETITION TO COMPEL

DECLARATION OF MICHAEL CARROLL

I, Michael Carroll, declare as follows:

1. I am presently employed by Latham and Watkins LLP as a partner.
2. I have been retained to represent the Applicant for the Puente Power Project (P3) in the Application for Certification proceedings before the California Energy Commission (CEC).
3. This declaration was prepared with my input and under my direction.
4. This declaration is true and accurate with respect to the issues that it addresses.
5. I am personally familiar with the facts and conclusions contained in this declaration and if called as a witness could testify competently thereto.
6. On December 2, 2015, I sent the attached e-mail to counsel of record for the City of Oxnard in the CEC proceedings on P3. The draft Nondisclosure Agreement attached to the December 2, 2015 e-mail was the subject of prior negotiations with counsel for the City.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed December 7, 2015, at Costa Mesa, California.


Michael Carroll

Carroll, Michael (OC)

From: Carroll, Michael (OC)
Sent: Wednesday, December 02, 2015 4:29 PM
To: 'Ellison Folk'
Subject: NRG P3 Revised City Nondisclosure Agreement
Attachments: mjc NRG P3 Revised City Nondisclosure Agreement(2080310_1_OC).DOCX

Hello Ellison.

As you may have seen, we docketed the updated modeling analysis for P3 on Monday, and submitted the confidential back-up file to the staff today. I have revised the proposed Nondisclosure Agreement to reflect the new submissions. If the NDA is acceptable to you, we can finalize and get signatures. I have the confidential back-up file and can send it to you as soon as we have the NDA in place.

Regards, Mike.

Michael J. Carroll

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NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement (“Agreement”) is entered into as of ~~October~~ December __, 2015 by and between NRG Energy Center Oxnard LLC (“NRG”), the City of Oxnard (the “City”), Shute, Mihaly & Weinberger LLP (“Shute Mihaly”) and J. Phyllis Fox, Ph.D (“Dr. Fox”). NRG, the City, Shute Mihaly and Dr. Fox are occasionally referred to herein individually as a “Party” and collectively as the “Parties.” The City, Shute Mihaly and Dr. Fox are occasionally referred to herein individually as a “City Party” and collectively as the “City Parties.”

RECITALS

A. NRG filed an Application for Certification (“AFC”) for the Puente Power Project (the “Project”) on April 15, 2015 (15-AFC-01), and the AFC was accepted by the California Energy Commission (“CEC”) as data adequate on June 10, 2015.

B. On July 17, 2015, the CEC Staff issued its Data Requests, Set 1 (Nos. 1-47) (“CEC Data Requests”) to NRG.

C. On August 4, 2015, the City issued its Data Requests, Set 1 (Nos. 1-46) (“City Data Requests”) to NRG.

D. City Data Request No. 1 seeks “all information provided in response to CEC Data Request 2” and “to the extent not covered by CEC Data Request 2 . . . all Excel spreadsheets used to support the emission estimates in the AFC, Appendices C-2, C-6, and C-8, in their native electronic format and unprotected (i.e., showing formulas) . . .”

~~D.E.~~ On August 17, 2015, in response to CEC Staff Data Request No. 2, NRG submitted to the CEC several live electronic Excel spreadsheet files under a request for confidential designation.

~~E.F.~~ On August 24, 2015, NRG objected to providing the information requested in City Data Request No. 1 (with the exception of the spreadsheet files used to support the emission estimates in AFC Appendix C-6, which were previously docketed with the CEC as part of the AFC) on the basis that the requested information is confidential.

G. On September 25, 2015, NRG submitted to the CEC a revised response to CEC Data Request No. 2 with a request that the response be designated as confidential.

H. On October 30, 2015, NRG informed the CEC that it had received updated emissions information from its turbine supplier, and would be updating the air quality modeling analysis for the project, and therefore withdrew the August 17, 2015 and September 25, 2015 submissions referred to in paragraphs E and G above, respectively.

~~F.I.~~ On November 30, 2015 NRG docketed the results of the updated air quality modeling as Appendix 49-1 of Applicant’s Responses to CEC Data Request Set 2.

~~G.J. On December 2, 2015, NRG submitted to the CEC a file that consists of a live electronic Excel spreadsheet comprised of several subsheets which include the detailed operational and commissioning emission calculations shown in Appendix 49-1 of Applicant's Responses to CEC Data Request Set 2 docketed on November 30, 2015 with a request that the response be designated as confidential NRG submitted a second revised response to CEC Data Request No. 2 with a request that the response be designated as confidential, and withdrew the revised response submitted on September 25, 2015.~~

~~H.K. With the exception of the spreadsheet files used to support the emission estimates in AFC Appendix C-6, which were previously docketed with the CEC as part of the AFC, NRG asserts that the file submitted to the CEC on December 2, 2015 and referred to in paragraph J above NRG's second revised response to CEC Data Request No. 2 contains all of the information requested in City Data Request No. 1.~~

~~I.I. NRG further asserts that the file submitted to the CEC on December 2, 2015, referred to in paragraph J above the information provided in the second revised response to CEC Data Request No. 2 and requested in City Data Request No. 1 constitutes confidential trade secret information pursuant to California Government Code §§ 6254(k) and 6254.7(d), which exempt trade secrets from disclosure under the California Public Records Act (California Government Code §§ 6250 – 6276.48) ("CPRA"), confidential data used to calculate emissions data exempt from disclosure under the CPRA pursuant to California Government Code § 6254.7(e), and confidential proprietary information exempt from disclosure under the CPRA pursuant to California Government Code § 6254.15.~~

~~J.M. Without in any way affecting the confidential nature of the information submitted to the CEC on December 2, 2015, referred to in paragraph J above provided in response to CEC Data Request No. 2 and requested in City Data Request No. 1, or waiving any claims that NRG or its consultants may have in this regard, NRG will provide the requested information to the City Parties pursuant to the terms of this Agreement.~~

TERMS AND CONDITIONS

Now, therefore, for good and valuable consideration, the Parties agree as follows:

1. Any data, document, file or information (including formulae contained in any spreadsheet cell) provided by NRG to any or all of the City Parties in response to City Data Request No. 1 that NRG designates as confidential shall be deemed "Confidential Information" for purposes of this Agreement.

2. The City Parties will use the Confidential Information solely for the limited purposes of their review of the Project and participation in regulatory proceedings related to the Project ("Project Review").

3. Any City Party who receives Confidential Information may not, without the prior written consent of NRG, disclose that Confidential Information to any person, other than the other City Parties or regulatory agencies reviewing the Project. Prior to sharing the Confidential Information with such a regulatory agency, the sharing City Party shall inform the agency that NRG considers the Confidential Information confidential trade secret information which is exempt from disclosure, confirm that the agency has a written procedure for handling and protecting confidential trade secret information, and obtain written assurance from the agency that the Confidential Information shall be so designated and handled accordingly.

4. Except as otherwise agreed upon by the Parties, the City Parties shall maintain physical custody or control over all Confidential Information obtained by them and shall be responsible for ensuring that such Confidential Information is not disclosed, except as otherwise provided or permitted by the terms of this Agreement.

5. Without prejudice to the rights and remedies otherwise available to any Party, the City Parties acknowledge and agree that the Confidential Information is valuable to NRG, that a breach of this Agreement could cause irreparable harm to NRG, and that NRG could be entitled to seek injunctive relief or specific performance or both if the City Parties breach or threaten to breach any of the provisions of this Agreement. In the event NRG believes that the City Parties or any of them have breached or intend to breach their or its obligations under this Agreement, NRG shall provide such Parties or Party with written notice and a 5 business day opportunity to cure the alleged breach. Notice to the City Parties shall be sent to:

Shute, Mihaly & Weinberger LLP
Attn: Ellison Folk
396 Hayes Street
San Francisco, CA 94102
Telephone: (415) 552-7272
Facsimile: (415) 552-5816

6. Notwithstanding anything to the contrary contained elsewhere in this Agreement, information shall not be considered Confidential Information to the extent it becomes at any time thereafter, through no fault of the City Parties, part of the public domain.

7. In the event that a City Party is compelled by subpoena, interrogatories, requests for information or documents (including requests pursuant to the CPRA), civil investigative demand, court order, or similar process to make any disclosure of Confidential Information, the City Party shall provide NRG with prompt written notice of such process so that NRG has sufficient time to seek a court-ordered protective order or what NRG otherwise considers an appropriate remedy. Said written notice shall be provided to:

NRG Energy, Inc.
100 California Street, Suite 650
San Francisco, CA 94111
Attention: West Region General Counsel
Telephone: (415) 627-1639
Facsimile: (415) 398-2406

with a copy to:

Michael J. Carroll
Latham & Watkins LLP
650 Town Center Drive, Suite 2000
Costa Mesa, CA 92626
Telephone: (714) 755-8105
Facsimile: (714) 755-8290

Notice under paragraph G shall be deemed given when received. Verbal or electronic notice under paragraph G shall be followed by delivery of a hard copy of such Notice.

8. All Confidential Information shall remain the property of NRG. Following the City Parties' completion of the Project Review described in paragraph B, the City Parties shall promptly return all of the Confidential Information in the City Parties' possession or control to NRG if so requested by NRG. In the alternative, the City Parties may destroy all such Confidential Information in their possession or control; provided that the City Parties certify such destruction to NRG in a writing signed by an authorized representative of each of the City Parties.

9. Each Party represents and warrants that it is authorized to enter into this Agreement and that the person executing this Agreement on its behalf has the capacity, full power and authority to bind it to each and every provision of this Agreement. This Agreement is binding upon, and shall inure to the benefit of, the Parties and each of their respective successors and assigns, provided however that City Parties cannot assign their rights under this Agreement to any other party or persons without the prior written consent of NRG.

10. The Parties declare that each of them has read this Agreement, knows and understands its contents, and comprehends and agrees to all of its terms, conditions and meanings and their significance.

11. This Agreement is the entire agreement between the Parties relating to the matters contained herein, and supersedes all prior agreements, negotiations, commitments and undertakings with respect thereto. No modification, amendment or waiver of any provision of this Agreement shall be effective unless approved in writing by each of the Parties. Any Party's failure at any time to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such Party to enforce each and every provision in accordance with its terms.

12. The Parties agree that this Agreement shall remain in full force and effect unless and until the Parties agree, in writing, to modify its terms or terminate this Agreement. If litigation, arbitration, appraisal or other dispute resolution process ensues, the Party seeking to maintain the confidentiality of the documents shall promptly seek a protective order from the court.

13. All questions concerning the construction, validity, interpretation and performance of this Agreement shall be construed in accordance with applicable California law.

14. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original for all purposes and all of which taken together shall constitute one and the same agreement. Facsimile signatures on counterparts of this Agreement shall be deemed to be original signatures for all purposes.

15. If any provision of this Agreement is held to be invalid or unenforceable as against any person or under certain circumstances, the remainder of this Agreement and the applicability of such provision to other persons or circumstances shall not be affected thereby. Subject to the foregoing, each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

This space intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date on which the last-signing Party signs below.

NRG ENERGY CENTER OXNARD LLC

DATED: ~~October~~ December __, 2015

By: _____

Name: John Chillemi

Title: President

CITY OF OXNARD

DATED: ~~October~~ December __, 2015

By: _____

Name: _____

Title: _____

SHUTE, MIHALY & WEINBERGER LLP

DATED: ~~October~~ December __, 2015

By: _____

Name: _____

Title: _____

DR. PHYLLIS FOX

DATED: ~~October~~ December __, 2015

By: _____

Name: _____

Title: _____

714123.1

ATTACHMENT C



GE Energy

Andrew Dicke
Environmental Marketing Manager
Power Generation Products

1 River Road,
Schenectady, NY 12345
USA

T 518-385-4708
C 518-698-9807
E Andrew.Dicke@GE.com

Mr. Steve Rose
Sr Director - Development Engineering
1000 Main Street
Houston, TX 77002

January 9, 2015

Dear Mr. Steve Rose:

Per your request, GE confirms that the NRG Mandalay Bay 7HA.01 gas turbine, installed in a simple cycle configuration and equipped with an SCR and CO catalyst will achieve the following steady state operation emission values.

Constituent	Steady state stack emissions during emission compliance mode
NOx	2.5 ppmvd, Ref 15%O2
CO	4.0 ppmvd, Ref 15%O2
VOC	2.0 ppmvd, Ref 15%O2
NH3	5.0 ppmvd, Ref 15%O2
Total Particulates	10.6 lbs/hr

Please do not hesitate to contact me if you have any questions.

Best regards,

Andrew Dicke
PGP Environmental Marketing Manager

cc: M. Thuillez
C. Dutcher
A. St. John - Grover
P. Kulkarni
C. Matis

ATTACHMENT D



GE Power and Water

October 28, 2015

To: NRG Puente Power Team

Subject: NRG Puente Power
GE IPS: 976085
GE PM10 Emission Guarantee

The NRG Puente Power Plant, will utilize the 7HA.01 gas turbine technology installed in a simple cycle configuration equipped with an air attemperated simple cycle SCR and CO catalyst. For this installation, GE is offering a Particulate Matter emission guarantee of 10.1 lbs/hr as measured at the emission sampling ports located at the turbine stack exit. This guarantee shall apply for the entire load range from minimum emission compliant load (MECL) through base load operation and across the guarantee ambient temperature range of 38.9 to 82 deg F.

Regards,

A handwritten signature in black ink, appearing to read 'Andrew Dicke'.

Andrew Dicke
GE Power and Water
Emissions and Permitting Application Engineer

ATTACHMENT E

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the matter of:	)	DOCKET NO. 15-AFC-01
)	
Application for Certification of the	)	DECLARATION OF DAWN
PUENTE POWER PROJECT	)	GLEITER IN SUPPORT OF
	)	THE APPLICANT'S RESPONSE TO
	)	THE CITY OF OXNARD'S
	)	PETITION TO COMPEL

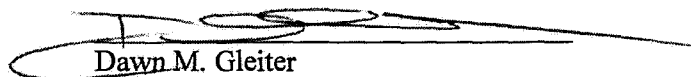
DECLARATION OF DAWN GLEITER

I, Dawn Gleiter, declare as follows:

1. I am presently employed by NRG Energy, Inc. (NRG) as Director of Sustainable Development.
2. I am the Project Manager for development of the Puente Power Project (P3).
3. This declaration was prepared with my input and under my direction.
4. This declaration is true and accurate with respect to the issues that it addresses.
5. I am personally familiar with the facts and conclusions contained in this declaration and if called as a witness could testify competently thereto.
6. NRG has received written statements from the turbine vendor, General Electric (GE), confirming the emission rates of the proposed P3 turbine; however, as of the date of this declaration, NRG has not negotiated final commercial guarantees with GE.
7. NRG has not received from GE any emissions test data for the proposed P3 turbine.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed December 7, 2015, at San Francisco, California.


Dawn M. Gleiter