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Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	213470
Document Title:	CEJA Request to Reconsider Schedule
Description:	CEJA request for reconsideration of proceeding schedule to allow adequate time for expert testimony.
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Submitter Role:	Intervenor Representative
Submission Date:	9/1/2016 2:41:48 PM
Docketed Date:	9/1/2016

September 1, 2016

JANEA A. SCOTT, Commissioner and Presiding Member
KAREN DOUGLAS, Commissioner and Associate Member
RAOUL RENAUD, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento CA 95814-5512

**Re: Request for Reconsideration of Schedule for Puente Power Project
(Docket No. 15-AFC-01)**

Dear Commissioners Scott and Douglas, and Hearing Officer Renaud:

The California Environmental Justice Alliance (“CEJA”) respectfully submits this request to reconsider the schedule in the above-captioned matter to allow adequate time for parties to submit expert testimony. This request for reconsideration arises now for three reasons. First, the California Coastal Commission has issued a draft report regarding the proposed location for the Puente Power Project (“P3”). Second, the US Fish and Wildlife Service has documented presence of endangered species, and a need for an Incidental Take Permit. Third, given the magnitude of additions staff will likely make to the Preliminary Staff Report (“PSA”) in response to comments, the originally-contemplated schedule for expert testimony, in addition to the need for additional testimony to address sister-agency input, is not likely to prove sufficient.

The current schedule was set by the Committee on July 25, 2016, and provides that a Final Staff Assessment (“FSA”) would be released on October 14, 2016 and opening testimony would be filed on November 4, 2016. Rebuttal testimony would be due just 10 days later on November 14. As described below, in light of new information, CEJA does not believe that the revised schedule provides adequate time to submit opening testimony on the FSA. Therefore, CEJA requests reconsideration of the Committee’s revised scheduling order.

CEJA member and partner organizations organize and represent people who live in environmental justice communities throughout California, including the Central Coast Alliance United for a Sustainable Economy (“CAUSE”), whose members include many residents and farmworkers in Oxnard who live and work near the proposed site for P3. On April 27, 2016, this Committee granted intervenor status to CEJA. Since then, CEJA, and CAUSE members, have participated with this process to seek to advance the CEC’s analysis of P3. In order to do so, CEJA will prepare expert testimony, or coordinate with other intervenors to ensure the Commission’s record is complete with respect to every aspect of P3. The need for, and

complexity of, evidentiary submissions has increased in the last few days, straining the likelihood that the already-truncated schedule for testimony could be met.

First, last Friday the California Coastal Commission submitted a draft report on P3, which would recommend the CEC require NRG to propose an alternate site. Regardless of the outcome of the Coastal Commission final decision, the FSA will need to address the draft report, and the documentation it raises. This analysis will need to inform the expert testimony parties submit.

Second, earlier last week the CEC posted the analysis by US Fish and Wildlife Service, which shows the existence of several endangered and threatened species at the P3 site. That analysis recommends that P3 apply for an Incidental Take Permit, an issue that the FSA will discuss. Parties will need to evaluate the FSA's treatment of the species issues, and their experts may need to prepare additional information in response to it.

Third, even without the recent events, three weeks to present testimony in response to the FSA is not sufficient. The PSA is over 1,000 pages, and addresses a range of complex environmental and technical issues. The PSA was the first time the public had an opportunity to review staff's analysis of the environmental impacts of P3. As CEJA explained at the staff's PSA workshop in Oxnard, the PSA does not adequately address a number of impacts. CEJA expects to submit comments on the PSA's treatment of environmental justice impacts and consistency with local land use regulations, and alternatives. CEJA understands that other intervenors plan to submit expert testimony on sea level rise, tsunami risk, and impacts to air quality and sensitive biological resources. Presumably, the FSA will respond to these issues, informing the expert testimony parties will submit.

For example, as discussed at the staff workshop in Oxnard, the PSA contains no discussion of the Project's consistency with the City of Oxnard's recently adopted general plan amendments that prohibit the siting of energy infrastructure in areas subject to environmental hazards, such as sea level rise or earthquakes—even though these amendments had been adopted prior to the release of the staff assessment. P3 is clearly inconsistent with these requirements, and this inconsistency is a potentially significant environmental impact and legal factor relevant to the analysis of P3. Although the public should have had an opportunity to evaluate the Project's inconsistency with Oxnard's land use regulations, this analysis will not appear until the final staff assessment. Three weeks is not enough time for the public and intervenors to review staff's analysis and prepare testimony in response.

The PSA also incorrectly eliminates from consideration feasible project alternatives, including the Mission Rock project and the Ormond Beach parcels because the PSA asserts they are not "controlled" by NRG. There is no actual evidence, such as statements from the property owners, that these sites would not be available to NRG. Simply stating that NRG made a reasonable, market based offer for the Ormond beach parcels, but not including this offer for review, does not substantiate the statement. PSA at p. 6.1-21. If this information is not provided in the FSA, intervenors will be required to identify witnesses and documents that could be relied upon to testify regarding the availability of these sites.

To ensure that intervenors have an adequate opportunity to present testimony, CEJA requests that the schedule be modified as set forth below. If the FSA is not released on October 14, 2016, the dates should be modified as set forth below provide sufficient time from the actual date of publication.

Final Staff Assessment :	October 14, 2016
Intervenors Testimony:	November 29, 2016
Last day to Petition to Intervene:	November 29, 2016
Rebuttal Testimony (All Parties):	December 12, 2016
Prehearing Conference:	December 12, 2016
Evidentiary Hearings:	January 17, 2017

CEJA appreciates the hard work staff have invested in the proceeding thus far, and requests that you reconsider the schedule for this proceeding, so that parties may engage with the facts raised by the proposed P3 plant in a meaningful way, as contemplated by CEQA and the Warren Alquist Act.

Dated: September 1, 2016

Respectfully Submitted,

By: /s/

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