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Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	213944
Document Title:	Staff Motion to Find Good Cause for Extension of Discovery
Description:	N/A
Filer:	Patty Paul
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/10/2016 3:18:55 PM
Docketed Date:	10/10/2016



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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**APPLICATION FOR CERTIFICATION FOR THE
PUENTE POWER PROJECT**

Docket No. 15-AFC-01

MOTION TO FIND GOOD CAUSE

I. Summary

California Energy Commission (Energy Commission) Staff submits this *Motion to Find Good Cause* for consideration by the Committee for the Application for Certification (AFC) for the Puente Power Project (Puente or project). Staff respectfully requests that the Committee find good cause to allow for an extension of the discovery period, so that Staff may submit Data Requests to NRG Oxnard Energy Center, LLC (Applicant) regarding two recently filed proposed project changes.

II. Background

On April 15, 2015, Applicant submitted an AFC to the Energy Commission seeking permission to construct and operate Puente, a 262-megawatt, natural gas-fired power generation facility. The AFC was found to be data adequate on June 10, 2015 and discovery closed 180 days later, on December 7, 2015. (Cal. Code Regs., tit. 20, § 1716(e)). Energy Commission Staff filed the Preliminary Staff Assessment (PSA) on June 17, 2016.

On August 26, 2016, Applicant filed a “Refinement to Transmission Interconnection” (Transmission Refinement) (TN 213000/213002). The original transmission line design for the proposed project was a single-circuit connecting to Southern California Edison’s (SCE) Santa Clara switchyard by connecting through the existing Mandalay Generating Station (Mandalay) 230 kilovolt (kV) switchyard. Instead, the Transmission Refinement proposes a gen-tie connecting directly to both circuits of the 230 kV SCE transmission system, thereby bypassing the Mandalay switchyard and changing the first point of interconnection. Then, on September 26, 2016, Applicant filed “Project Enhancement – Outfall Removal and Beach Restoration” (Outfall Removal) (TN 213802), which details the demolition of the ocean-side outfall structure and a new point of wastewater disposal.

On September 27, 2016, the Committee held a Status Conference in Oxnard during which the Committee asked the parties whether recently filed changes to the project

proposal warranted additional time for review. Staff indicated that analysis of the Outfall Removal and Transmission Refinement would require additional Data Requests to the Applicant prior to publication of the Final Staff Assessment (FSA). Under the Commission's regulations, Applicant would have 30 days to respond to the data requests; however, Applicant indicated they would be willing to provide their responses in less time. (Cal. Code Regs., tit. 20, § 1716(f).)

III. Discussion

California Code of Regulations, title 20, section 1716, subdivision (e) requires all requests for information to be submitted "no later than 180 days from the date the commission determines an application is complete, unless the committee allows requests for information at a later time for good cause." The phrase "good cause," as used in the regulation, is not defined. However, a finding of good cause should be found based on the following, as discussed below: (1) further discovery is necessary for Staff to analyze the project changes; (2) the proposed changes were not filed until after the close of discovery; (3) other parties will not be prejudiced due to Staff's discovery request; and (4) the schedule will not be significantly impacted by extending discovery.

A. Extension of Discovery Is Necessary for Staff's Environmental Review of Proposed Project

The Outfall Removal and Transmission Refinement are significant changes from the original project description; Data Requests are necessary for Staff's analysis of the proposed project in the FSA. Staff needs additional information to clarify and supplement Applicant's voluntary filings containing descriptions of the proposed project changes, including, but not limited to, information impacting the Soil and Water Resources, Biological Resources, Cultural Resources, Transmission System Engineering, and Traffic and Transportation sections. Without such information, Staff will not be able to provide a complete analysis of the "significant environmental effects of the project and need for, and feasibility of, additional or alternative mitigation measures . . ." (Cal. Code Regs., tit. 20, §1742(b).) Therefore, an extension of the discovery period is necessary to allow for requests to clarify issues related to the Outfall Removal and Transmission Refinement prior to the publication of Staff's FSA.

B. The Proposed Changes Were Not Filed Until After the Close of Discovery

Applicant filed the Outfall Removal and Transmission Refinement after the close of the discovery period, in part, due to comments received during the PSA comment period. Staff had no previous opportunity to make timely Data Requests because the project change information was not made available to Staff until approximately eight months after the end of the discovery period. Staff's purpose of filing additional Data Requests is not to acquire information on elements of the project design which remain unchanged, but is limited specifically to the recently-submitted Outfall Removal and Transmission Refinement.

C. The Applicant or Other Parties Will Not Be Prejudiced Due to Staff's Data Requests

An extension of the discovery period to allow for Staff's limited Data Requests will not prejudice Applicant or other parties, but, instead, assist Staff and other parties in gaining a more comprehensive understanding of the revised project proposal. It will benefit other parties to review the questions and responses to develop a complete view of the project proposal and supplement their analysis. Furthermore, no prejudice will result from requiring the parties to reopen discovery for this limited purpose before publication of the FSA because there are other elements outside of Staff's control required for completion of the FSA that have not yet been filed: the Final Determination of Compliance from the Ventura County Air Pollution Control District and comments on the PSA from the California Department of Fish and Wildlife.

D. The Schedule Will Not Be Significantly Impacted

Staff will issue its Data Requests by Tuesday, October 11, 2016. Applicant has agreed to provide responses to Staff in a timely manner, and has indicated a willingness to work with Staff to clarify the Data Requests as needed.

IV. Conclusion

For the above-stated reasons, Staff respectfully requests the Committee grant the *Motion to Find Good Cause* to reopen the discovery phase in the Puente proceeding for the limited purpose of filing Data Requests on the Applicant's proposed changes to the transmission interconnection and removal of the outfall.

Date: October 7, 2016

Respectfully submitted,

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Staff