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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

**CITY OF OXNARD'S PREHEARING
CONFERENCE STATEMENT**

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The City of Oxnard files the following prehearing conference statement in response to the Commission's January 20, 2017 Order.

1. Subject areas that are complete and ready to proceed to Evidentiary Hearing:

On January 24, 2017, the applicant submitted substantial testimony that should have been submitted as opening testimony on January 18. This testimony was also submitted after the 3 p.m. deadline and pursuant to the January 20, 2017 scheduling order, is subject to exclusion. Oxnard intends to file a motion to strike this testimony as improper rebuttal and untimely. Therefore, this matter is not ready for evidentiary hearings unless the late testimony submitted by NRG is stricken. If the Commission does not grant the motion to strike Oxnard reserves the right to dispute that the matter is ready for Evidentiary Hearings.

With that caveat and subject to the discussion in section 4 regarding areas where this matter would benefit from further development of the record, Oxnard is prepared to proceed to evidentiary hearing on Soils and Water Resources, Geology, Environmental Justice, Air Quality, Land Use, Visual Resources, Traffic and Transportation, Alternatives, and LORS consistency and Override Findings.

In addition to the issues it intends to address at the evidentiary hearings, Oxnard reserves the right to challenge the approval of the Project based on the issues raised in its comments on the Preliminary Staff Assessment or the arguments of other parties, including the legal adequacy of the air quality analysis, the selection of alternatives, the adequacy of the analysis of impacts to biological resources, and the project description and objectives.

2. Subject areas upon which Oxnard intends to introduce testimony in writing:

The City intends to introduce as written testimony all of the exhibits listed on its exhibit list, including the testimony of Ashley Golden (Land Use, Override Findings, and Alternatives), Carmen Ramirez (Environmental Justice), Dr. David Revell (Soil and Water Resources/Geology—Sea Level Rise and Coastal Hazards), Todd McNamee (Transportation—Air Safety), Jim Caldwell (Alternatives, Override Findings, Public Convenience and Necessity), Darwin Base (Public Services) and Woody Hansen (Alternatives). The City also intends to call Ashley Golden, Carmen Ramirez, Dr. David Revell, Todd McNamee, and Jim Caldwell as witnesses as set forth below. The City intends to submit the testimony of Edward Schexnayder introducing the City's comments on the Preliminary Staff Assessment, the testimony of Darwin Base, and the testimony of Woody Hansen as written testimony only.

3. Subject areas that require adjudication and precise nature of the dispute:

Soil and Water Resources/Geology: Whether the FSA and testimony from NRG

adequately address and mitigate risk due to sea level rise and other coastal hazards. The nature of the dispute includes:

The FSA and the assessment of coastal hazards prepared by the applicant substantially underestimate risks from sea level rise and coastal hazards because they rely on draft, undocumented methodology that does not take into account coastal erosion, the full lifetime of the project, current topography at the site, sediment supply, variability in the slope and width of the beach.

- The reliance on draft FEMA maps fails to take into account sea level rise, coastal erosion, or existing topography on the site.
- The reliance on data from 2009 overstates beach width and ignores recent erosion and historic beach variability.
- The site is more exposed to existing coastal flooding hazards than represented in the FSA. Using new topography with the same FEMA methodology and storm characteristics, wave run up elevations associated with a 1% annual storm (“100 year event”) could overtop the dunes in front of the site.
- Variability in the beaches fronting the site have not been considered in any modeling of coastal hazards, and future exposure to coastal hazards accelerated with sea level rise and exacerbated by likely declines in sediment supply are poorly represented. These shortcomings understates the exposure of the site to future coastal erosion and coastal flooding hazards. The FSA relies almost entirely on draft modeling data that is poorly documented and utilizes questionable assumptions.
- The FSA doesn’t consider the latest scientific evidence on tsunamis (which show the site in an existing tsunami hazard zone) and sea level rise which was funded by the CEC for the California 4th Climate Assessment.
- The time frame for evaluating sea level rise and coastal hazard impacts in the future does not follow state agency guidance or the most recent science funded by the CEC. At the very least, the project should examine the same 60-year operational life that the existing MGS plant has experienced.
- Impacts from the demolition of the ocean outfall on beach stability are absent from the FSA and are likely to result in narrowing of the beach fronting the proposed site.

- The cumulative impacts of the project on neighboring community adaptation planning is not addressed in the FSA.
- Alternative locations can avoid all of these existing and future hazards and improve regional resilience to climate change.

Environmental Justice: Whether the FSA and testimony from NRG accurately assess the environmental justice impacts of the project.

- The precise nature of the dispute is the failure to account for all the impacts that the over-concentration of undesirable facilities has on a community.

Land Use/LORS Consistency: Whether the FSA and testimony from NRG adequately address inconsistencies with Oxnard’s land use policies. The precise nature of the dispute includes:

- The failure to acknowledge inconsistency with Policies 52, 56, and 62 in the City’s Local Coastal Plan.
- The inaccurate interpretation of the City’s height restriction and as a result failure to acknowledge the Project’s inconsistency with this land use policy.
- The failure recognize the City’s ability to require removal of the decommissioned Mandalay 1 and 2 facilities.
- The failure to evaluate compatibility between the Project and recreation and adjacent land uses.

Alternatives: Whether the FSA adequately addressed alternative sites and alternative technologies, including preferred resources. The precise nature of the dispute includes:

- Whether preferred resources or a combination of preferred resources and a much smaller gas powered plant would meet the identified need for the Project.
- Whether the Mission Rock site is an alternative that would meet the identified need for the Project.
- Whether the Ormond Beach inland site would avoid inconsistencies with City land use policies presented by the Project.
- Whether the Fifth Street/Del Norte site would avoid inconsistencies

with City land use policies presented by the Project.

Transportation: Whether the FSA adequately addressed air traffic safety resulting from construction of the project at the Mandalay site and whether the FSA exaggerated the impacts to air traffic safety at the Del Norte/Fifth Street site. The precise nature of the dispute includes:

- The appropriate method for determining risk and whether the FSA deviated from established thresholds applied by the Commission.
- Whether mitigation proposed in the FSA is feasible and effective.
- How the proposed project will affect plans to restore commercial service to Oxnard Airport.

Override Findings: Whether the record supports a finding that: (1) that public convenience and necessity require the project, and (2) that there are not more prudent and feasible means of achieving public convenience and necessity. Pub. Res. Code § 25525. The precise nature of the dispute includes:

- The actual LCR need for the Moorpark area.
- Alternatives that could meet that need with fewer environmental impacts and without creating an inconsistency with local land use policies (see section regarding alternatives above).
- The negative consequences of approving the project in terms of meeting the goals of SB 350 and reducing GHG emissions.

4. Subject areas that are not complete and not ready for Evidentiary Hearing:

As discussed above, the applicant submitted a significant amount of testimony that was improperly designated as rebuttal testimony and was submitted late. Therefore, unless that testimony is stricken, the Commission cannot make findings to support project approval on alternatives or overrides unless all parties have the opportunity to respond to this new evidence.

In addition, because the FSA relied on the draft COSMOS 3.0 model for evaluating sea level rise and coastal hazards at the site, consideration of the project and the adequacy of the analysis should be deferred until the final COSMOS 3.0 is adopted and documented. Similarly, the Commission cannot accurately assess whether the site is located in the FEMA 100 year flood zone/VE zone until final FEMA flood insurance maps are issued, which will occur later this year. The analysis of tsunami hazard failed to address tsunami risk from the Pitas Point and Lower Red Mountain faults even though Oxnard specifically requested this analysis in its comments on the PSA.

Finally, the FSA and testimony do not contain sufficient information about project alternatives, including preferred resources and alternative technologies and locations and they do not adequately analyze inconsistencies with City land use policies, Therefore the record does not support an override finding.

5. The identity, qualifications, and subject matter of each witness Oxnard intends to sponsor:

Soil and Water Resources:

- David Revell, Ph.D. (resume attached), will testify regarding the analysis of sea level rise and other coastal hazards. Mr. Revell will address the issues identified under Soil and Water Resources set forth in section 3.

Time estimate: 1 hour

Land Use and Environmental Justice

- Carmen Ramirez, Member of the Oxnard City Council, will testify about the impact that power plants and other undesirable industrial facilities have had on Oxnard.

Time estimate: 15 minutes

- Ashley Golden, Director of Development Services, City of Oxnard will testify regarding City land use policies and planning efforts, interpretation of the City's General Plan, Local Coastal Plan, Zoning Code, and other city land use policies and regulations.

Time estimate: 30 minutes

Transportation

- Todd McNamee, Director of Ventura County Airports, will testify regarding air safety hazards posed by the Puente Project and interference with plans to return commercial airline service to Oxnard Airport. Mr. McNamee joined the County of Ventura in 2001 as the Deputy Director of Airports and was appointed as the Director of Airports in 2005. He oversees the operations, maintenance, and development of the Camarillo Airport and Oxnard Airport. He is also a pilot based out of Camarillo Airport and has extensive personal knowledge of air traffic patterns at both airports. Finally, he is a Past President of the Southwest Chapter of American Association of Airport Executives (AAAE) and has received numerous awards including the Southwest AAAE Award of Distinction for his service to the aviation industry. Mr. McNamee will address the issues

identified under Transportation set forth in section 3.

Time estimate: 20 minutes

Land Use and Override Findings

- Ashley Golden, Director of City of Oxnard Development Services, will testify regarding City land use policies and planning efforts, interpretation of the City's General Plan, Local Coastal Plan, Zoning Code, and other city land use policies and regulations.

Time estimate: 30 minutes (concurrent with above estimate)

Override Findings: Public Convenience and Necessity/Project Alternatives

- Jim Caldwell, resume attached, will testify regarding the Local Capacity Requirement that the Puente facility is purportedly designed to address. He will also testify as to alternative methods to satisfy the LCR need, including the availability of preferred resources, and alternative technologies and locations (including gas fired generation) that would satisfy the LCR need with fewer environmental impacts.

Time estimate: 30 minutes

Other Areas Subject to Dispute:

In addition to the issues it intends to address at the evidentiary hearings, Oxnard reserves the right to challenge the approval of the Project based on the issues raised in its comments on the Preliminary Staff Assessment, including the legal adequacy of the air quality analysis, the selection of alternatives, and the project description and objectives.

6. Subject areas/scope of questions to other parties' witnesses:

Soil/Water Resources/Geology

- CEC staff person, Marylou Taylor regarding her qualifications and the analysis conducted in the FSA with respect to sea level rise, coastal hazards and critical facility determination, including the basis for the decision to rely on the COSMOS model and assumptions regarding beach variability, dune erosion, resiliency planning, and facility lifespan.

Time estimate: 45 minutes

- CEC staff, Paul Marshall and Garry Maurath, regarding the lifespan of the

site for the purposes of sea level rise and the analysis of tsunami risk.

Time estimate: 10 minutes each

- NRG Consultant Philip Mineart regarding his qualifications and the analysis conducted by NRG with respect to sea level rise and coastal hazards, in particular the depth of his analysis, and assumptions regarding beach variability, dune erosion, and timeline of his analysis.

Time estimate: 30 minutes

- NRG witness Tom Ciolli regarding his qualifications to assess dune erosion and daily inspection routine.

Time estimate: 10 minutes

Alternatives/Public Convenience and Necessity/Override Findings

- CEC staff, Jeanine Hinde/David Vidaver, regarding elimination of project alternatives, changes in assumptions regarding the no project alternative between the PSA and FSA, conclusion regarding air safety at Del Norte/Fifth Street, preferred resources, the Mission Rock project, and alternative forms of technology.

Time estimate: 45 minutes total

- CEC staff, Matthew Layton, regarding project alternatives.

Time estimate: 15 minutes

- NRG witness, Dawn Gleiter, regarding site control, alternatives, and the offer for the Ormond Beach inland site.

Time estimate: 15 minutes

- NRG witness, Brian Theaker, regarding his qualifications, the LCR need, and the assertion that preferred resources are not a feasible alternative.

Time estimate: 20 minutes

If their testimony is not struck, Oxnard intends to call the following witnesses nominally listed as rebuttal witnesses by NRG:

- Mark Hale regarding the timing and extent of his investigation and available mitigation for archaeological impacts.

Time estimate: 15 minutes

- Jeremy Hollis regarding the timing and extent of his investigation and available mitigation for historic resource impacts.

Time estimate: 15 minutes

- Julie Love regarding the timing and extent of her investigation and available mitigation for wetland impacts.

Time estimate: 15 minutes

- George Piantka regarding the timing and extent of his investigation of project alternatives and determination regarding impacts and mitigation at the alternative sites.

Time estimate: 25 minutes

- Brian Theaker regarding the timing and extent of his investigation of the relative merits of the interconnections at the Ormond Beach inland alternative and the Del Norte/Fifth Street alternative and whether the Project is needed as a load serving facility.

Time estimate: 10 minutes

Land Use

- CEC staff, Ashley Gutierrez and/or Steve Kerr, regarding analysis of land use compatibility and resiliency planning.

Time estimate: 15 minutes

Transportation

- CEC staff, Jonathon Fong, regarding air safety issues.

Time estimate: 15 minutes

7. Exhibit list

See Attachment to this statement.

8. Briefing schedules/Other scheduling matters:

Oxnard requests that the opening briefs of the parties be due 30 days after the transcript has been prepared and made available to the parties. Reply briefs should be

filed 15 days after the filing of opening briefs. Because the number and complexity of issues involved, Oxnard requests that opening briefs not exceed 40 pages and reply briefs not exceed 25 pages.

9. Other Issues/Format of the Hearings:

Oxnard requests formal hearings, including the right to cross-examine witnesses for the CEC and the applicant. If the Committee elects to hold informal hearings, Oxnard requests it be given an equal amount of time to ask questions of the witnesses as the applicant and Committee.

DATED: January 27, 2017

SHUTE, MIHALY & WEINBERGER LLP

By: /s/ Ellison Folk

ELLISON FOLK

EDWARD T. SCHEXNAYDER

Attorneys for the CITY OF OXNARD

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Attachment A – City of Oxnard’s Exhibit List

Exhibit Number	TN#	Document Title	Subject Area
3000	204942	City of Oxnard CPUC Proceeding Testimony	Soil & Water Resources, Geology & Paleontology
3001	204943	City of Oxnard CPUC Proceeding Testimony	Soil & Water Resources, Geology & Paleontology
3002	211847	Oxnard City Council Resolution 14.925	Land Use
3003	211996	TERRY GIBSON Comments: No more plants here	Visual Resources
3004	212448	John C. Zaragoza Comments: On Proposed Power Plant on Oxnard's	Visual Resources, Environmental Justice
3005	212673	Joanna B. Newton Comments: Opposes Oxnard Power Plant	Visual Resources
3006	213558	City of Oxnard Comments: Item F10a Supporting Staff Recommendation (9/9/16 Coastal Commission Meeting)	Alternatives, Land Use, Soil & Water Resources, Biological Resources
3007	213649	Dr. Fox Comments on Puente PDOC and PSA (7-29-16)	Air Quality, Public Health
3008	213654	County of Ventura Comments: on Preliminary Staff Assessment	Biological Resources, Land Use
3009	213667	California Coastal Commission 30413(d) Report -- Final Approved Report	Land Use, Soil & Water Resources, Geology & Paleontology
3010	213674	County of Ventura, Department of Airports Comments: P3 Incompatible with Oxnard Airport	Alternatives, Traffic & Transportation
3011	213677	California Coastal Commission 30413(d) Report - File Docs Part 2	Land Use, Soil & Water Resources, Geology & Paleontology
3012	213681	City of Oxnard PSA Comments	Alternatives, Air Quality, Biological Resources, Public Health, Land Use, Soil & Water Resources, Geology & Paleontology, Traffic & Transportation, Visual Resources
3013	213736	California Coastal Commission 30413(d) Report - Additional Public Comment	Biological Resources
3014	214303	Applicant's Responses to Robert Sarvey's Data Request, Set 2	Alternatives
3015	214778	Linda Calderon Comments: NO more energy facilities on our coast.	Visual Resources, Environmental Justice
3016	214824	Irene Rauschenberger Comments: Fwd Energy Commissioners	Visual Resources, Land Use

3017	215419	Testimony of Carmen Ramirez	Environmental Justice, Land Use, Socioeconomics
3018	215420	Testimony of Oxnard Fire Chief	Worker Safety & Fire Protection
3019	215421	Testimony of Ashley Golden	Alternatives, Land Use, Soil & Water Resources, Visual Resources
3020	215422-2	Testimony of Ashley Golden Exhibit 2030 General Plan Map	Land Use
3021	215422-3	Testimony of Ashley Golden Exhibit Coastal Commission LCP Update contract June 2015	Land Use, Soil & Water Resources
3022	215422-4	Testimony of Ashley Golden Exhibit Muni Code Excerpts	Land Use, Visual Resources
3023	215422-6	Testimony of Ashley Golden Exhibit Sea Level Rise Policy Guidance	Soil & Water Resources
3024	215423	Testimony of J Woodford Hansen	Alternatives
3025	215427	Testimony of Dr. Revell	Soil & Water Resources, Geology & Paleontology
3026	215428-1	Testimony of Dr. Revell Exhibit Coastal Resilience Ventura Hazards Mapping Technical Report	Soil & Water Resources, Geology & Paleontology
3027	215428-2	Testimony of Dr. Revell Exhibit Dynamic Models of an Earthquake and Tsunami offshore Ventura	Soil & Water Resources, Geology & Paleontology
3028	215428-3	Testimony of Dr. Revell Exhibit Executive Order 11988	Soil & Water Resources, Geology & Paleontology
3029	215428-4	Testimony of Dr. Revell Exhibit ESA 2016 Relating Future Coastal Conditions to Existing FEMA Flood Hazard Maps	Soil & Water Resources, Geology & Paleontology
3030	215428-5	Testimony of Dr. Revell Exhibit Fig. 6-1 (Seismic Hazards Map)	Soil & Water Resources, Geology & Paleontology
3031	215428-6	Testimony of Dr. Revell Exhibit Oxnard LCP Update SLR Study Tsunami Analysis Tech Memo Draft Jan 14 2017	Soil & Water Resources, Geology & Paleontology
3032	215428-7	Testimony of Dr. Revell Exhibit Scripps Creating Probabilistic Sea Level Rise Projections	Soil & Water Resources, Geology & Paleontology
3033	215436-3	Exhibit - on Behalf of Intervenors SC, ECVC, and EDC (Oxnard General Plan)	Land Use

3034	215436-7	Exhibit - on Behalf of Intervenors SC, ECVC, and EDC (Oxnard Coastal Land Use Plan)	Land Use
3035	215438-1	Testimony of Jim Caldwell Exhibit A.14-11-016 Phase 2 Testimony of SCE, excerpted	Alternatives
3036	215438-2	Testimony of Jim Caldwell Exhibit A.16-11-002 Application of SCE for Approval of Results of Second Preferred Resources Pilot R	Alternatives
3037	215438-3	Testimony of Jim Caldwell Exhibit Appendix D Board Approved 2015-2016 Transmission Plan	Alternatives
3038	215438-4	Testimony of Jim Caldwell Exhibit Appendix E Board Approved 2014-2015 Transmission Plan	Alternatives
3039	215438-5	Testimony of Jim Caldwell Exhibit CAISO Opening Brief in R.12-03-014, excerpted	Alternatives
3040	215438-6	Testimony of Jim Caldwell Exhibit CAISO Sparks Testimony Moorpark RFO	Alternatives
3041	215438-7	Testimony of Jim Caldwell Exhibit Calpine Opening Brief in Track 1	Alternatives
3042	215438-8	Testimony of Jim Caldwell Exhibit CPUC 2015 Resource Adequacy Report	Alternatives
3043	215438-9	Testimony of Jim Caldwell Exhibit Discussion Draft 2030 Target Scoping Plan Update	Alternatives
3044	215438-10	Testimony of Jim Caldwell Exhibit Lazard Levelized Cost of Storage v2	Alternatives
3045	215438-11	Testimony of Jim Caldwell Exhibit Low Carbon Grid Study Phase II Results (2-2016)	Alternatives
3046	215438-12	Testimony of Jim Caldwell Exhibit Western Interconnection Flexibility Assessment Exec Summ 2016-01-11	Alternatives
3047	215439	Testimony of Jim Caldwell	Alternatives
3048	215442	Testimony of Todd McNamee	Alternatives, Traffic & Transportation
3049	215536	Rebuttal Testimony of Ashley Golden Re: City of Oxnard Land Use Policies	Land Use
3050	215537	Exhibit - Center for Sustainable Energy - Natural Gas Bridge Fuel	Soil & Water Resources, Geology & Paleontology

3051	215538	Exhibit - Mission Rock Project Description	Alternatives
3052	215539	Exhibit - Proposed Final 2016 Integrated Energy Policy Report	Alternatives
3053	215540	Exhibit - Vandever et al (Coastal Disasters 2015)	Soil & Water Resources, Geology & Paleontology
3054	215541	Rebuttal Testimony of Dr. David Revell to Testimony of Phillip Mineart	Soil & Water Resources, Geology & Paleontology
3055	215545-1	Statement of the City of Oxnard Regarding Consultation Under Public Resources Code Section 25525(D)(1)	Land Use
3056	215545-2	Exhibit - Energy Commission Staff's Status Conference Statement (12-AFC-03)	Land Use
3057	215545-3	Exhibit - Staff's ROC with the City of Redondo Beach (12-AFC-03)	Land Use

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