

DOCKETED

Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	221678
Document Title:	Committee Order Granting Applicant's Motion to Suspend and Denying Intervenors' Application to File Supplemental Response
Description:	N/A
Filer:	Darlene Burgess
Organization:	Energy Commission Hearing Office
Submitter Role:	Committee
Submission Date:	11/3/2017 2:19:42 PM
Docketed Date:	11/3/2017



Before the Energy Resources Conservation and Development
Commission of the State of California
1516 Ninth Street, Sacramento, CA 95814
1-800-822-6228 – www.energy.ca.gov

APPLICATION FOR CERTIFICATION FOR THE:

PUENTE POWER PROJECT

Docket No. 15-AFC-01

COMMITTEE ORDER GRANTING APPLICANT'S MOTION TO SUSPEND AND DENYING INTERVENORS' APPLICATION TO FILE SUPPLEMENTAL RESPONSE

This Order addresses NRG Oxnard Energy Center, LLC's (Applicant) Motion to Suspend Proceedings on the Application for Certification (Motion)¹ and the Intervenor's Joint Application to File Supplemental Response to NRG's Motion to Suspend AFC (Joint Application).² For the reasons set forth below, the Committee assigned to the Puente Power Project (Project)³ **GRANTS** the Motion on the terms described below and **DENIES** the Joint Application.

Background

On October 5, 2017, the Committee issued a statement indicating that it intended "to issue a [Presiding Member's Proposed Decision] that recommends denial of the Project on the grounds that it creates inconsistencies with [laws, ordinances, regulations, and standards] and significant environmental impacts that cannot be mitigated."⁴ On October 16, 2017, the Applicant filed the Motion, requesting suspension of this proceeding. The intervenors filed responses opposing the Motion.⁵ The Applicant filed a reply, clarifying that it is requesting a six-month suspension.⁶ Oral argument regarding the Motion was held during a Committee Conference on October 31, 2017. The intervenors filed the Joint Application on November 2, 2017.

¹ TN 221524.

² TN 221667.

³The Committee assigned to conduct proceedings on the Application for Certification (AFC) for the Puente Power Project consists of Commissioner Janea Scott, Presiding Member, and Commissioner Karen Douglas, Associate Member. The Energy Commission made this Committee assignment at its June 10, 2015 Business Meeting.

⁴ TN 221401, p. 2.

⁵ TNs 221527 (City of Oxnard, Sierra Club Los Padres Chapter, Environmental Defense Center, Environmental Coalition of Ventura County, Center for Biological Diversity, and California Environmental Justice Alliance, filed 10/17/17), 221537 (FFIERCE, filed 10/18/17), and 221589 (Robert Sarvey, filed 10/23/17).

⁶ TN 221639.

Discussion

The Applicant requests suspension of this proceeding in order to evaluate the results of an expedited preferred resources procurement process (Request for Offers, RFO) and “evaluate whether or not to proceed to a final decision on the Project.”⁷

The intervenors request that the Committee deny the Motion and instead issue its proposed decision, take public comment on it and present the proposed decision for adoption by the Energy Commission. They assert that the lack of a final decision will prevent the commencement of an RFO, discourage bidders from participating in the RFO, and prejudice the intervenors and public by requiring them to continue to monitor this proceeding.⁸

We do not share intervenors’ concerns. They cite no authority prohibiting the California Public Utilities Commission from authorizing a new RFO, nor are we aware of any. Additionally, we believe the statement we issued on October 5, 2017 stating that based “[o]n the record currently before us, we are unwilling to override the significant impacts or LORS inconsistencies” and “[notifying] the parties and interested members of the public that we intend to issue a PMPD that recommends denial of the Project . . .” was clear.⁹ Intervenors request a continued utilization of resources to process an application that the Applicant does not want to pursue at this time. Given the circumstances at hand currently, further utilization of resources is not warranted.

In the Joint Application, Intervenors seek to present additional arguments in opposition to the Motion. The Joint Application was filed three days after the deadline for responses to the Motion and two days after oral argument during our October 31 Committee Conference at which the Committee took the Motion under submission. The information Intervenors wish to present is a statement in a Bankruptcy Court filing that they interpret to mean that the Applicant is giving up site control over the project site. The statement is contained in a proposed reorganization plan as yet unapproved by the Bankruptcy Court. We need not consider the information because it is late and it would not affect our decision to grant the Applicant’s Motion.

Conclusion

The Committee therefore **GRANTS** the Motion. This proceeding is **suspended** until May 1, 2018. No later than April 20, 2018, the Applicant shall and the other parties may file status reports. The Joint Application is **DENIED**.

Una traducción al español de esta orden será fichada a principios de la próxima semana. (A Spanish translation of this order will be filed by early next week.)

⁷ TN 221639, p. 2.

⁸ TNs 221527, 221537, and 221589.

⁹ TN 221401, p. 2.

Dated: November 3, 2017, at Sacramento, California

ORIGINAL SIGNED BY:

JANEA A. SCOTT
Commissioner and Presiding Member
Puente Power Project AFC Committee

ORIGINAL SIGNED BY:

KAREN DOUGLAS
Commissioner and Associate Member
Puente Power Project AFC Committee