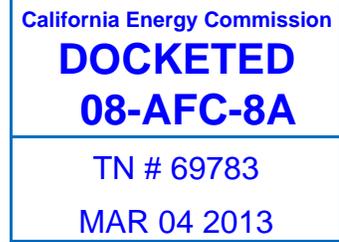


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STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:) DOCKET NO. 08-AFC-08A
)
APPLICATION FOR CERTIFICATION,) APPLICANT'S RESPONSE TO STAFF'S
FOR THE HYDROGEN ENERGY) REQUEST TO MODIFY SCHEDULE
CALIFORNIA PROJECT BY HYDROGEN)
ENERGY CALIFORNIA LLC)
_____)

Applicant is deeply concerned about California Energy Commission staff's request to delay the Project schedule by an additional six weeks relative to the schedule established by the Committee just four weeks ago. The Committee's Revised Scheduling Order issued January 30, 2013 was based on input received by the Committee at the January 16, 2013 Status Conference. At that time, staff indicated that it did not anticipate any problem issuing a Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS) by March 31, 2013. It appears that rather than making progress on the PSA/DEIS since the Status Conference, the staff has fallen even further behind.

If the Committee is inclined to grant staff additional time to complete the PSA/DEIS, although Applicant would not object, Applicant respectfully requests that any extension be conditioned as follows:

1. No further extensions of the deadline for the PSA/DEIS will be granted;
2. The PSA/DEIS must be complete in all respects with no significant gaps in staff's analysis of the Project;
3. Staff provides a written status update two weeks after the Committee grants staff's request; and
4. A status conference before the Committee should be scheduled three to four weeks prior to the revised PSA/DEIS due date to ensure that staff is making adequate progress.

DATED: March 4, 2013

Respectfully submitted,

/s/ Michael Carroll

Michael Carroll
LATHAM & WATKINS LLP
Counsel to Applicant