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August 27, 2012

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VIA EMAIL

The Honorable Carla Peterman, Presiding Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

The Honorable Karen Douglas, Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

California Energy Commission

DOCKETED
11-AFC-1

TN # 66952

AUG 27 2012

Re: Pio Pico Energy Center Project (11-AFC-1)
Applicant's Comments on the Presiding Member's Proposed Decision

Dear Commissioners Peterman and Douglas:

On August 6, 2012, this Committee issued a Notice of Availability of the Presiding Member's Proposed Decision ("PMPD") for the Pio Pico Energy Center project ("PPEC"). The Notice requested that the parties to this proceeding file and serve written comments on the PMPD to the Proof of Service list no later than August 27, 2012 in order to facilitate a discussion on the PMPD during the Committee Conference to be held on August 29, 2012. Applicant appreciates the opportunity to provide these comments but reserves the right to provide additional comments, if necessary, on or before the September 5, 2012 comment deadline. To that end, Applicant Pio Pico Energy Center, LLC, herein provides its comments on the PMPD.

The PMPD presents a sound and responsible decision by the Committee. The PMPD incorporates a significant number of conditions of certification to ensure compliance with all applicable laws, ordinances, regulations, and standards ("LORS"). Overall, Applicant is pleased with the contents of the PMPD and notes no major issues contained therein. Some minor editorial changes are required to ensure the language set forth in the Final Decision accurately reflects the design and operating parameters of PPEC. Below, Applicant identifies suggested revisions to the Introduction, Project Description, Air Quality, Hazardous Materials Management, Biological Resources, Socioeconomics, and Noise sections of the PMPD.



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Section I – Introduction

On page 1-1 in the third paragraph a sentence reads: “The project will be a natural gas-fired, simple-cycle peaking and load-following facility rated at a gross generating capacity of 300 megawatts (MW).” The use of the term “gross” in this sentence is not correct. The correct term is “net” as used in the AFC, or, as used by Staff in the FSA, “nominally rated.” Applicant requests that the word “gross” be replaced with “net” and that the sentence thus should read as follows: “The project will be a natural gas-fired, simple-cycle peaking and load-following facility rated at a **net** generating capacity of 300 megawatts (MW).”

Section II - Project Description

- The first paragraph of page 2-6 of the PMPD contains a sentence that reads: “ The proposed Pio Pico Energy Center (PPEC) would be a nominally rated 300 megawatt (MW) peaking and load following power plant... .” While this language is acceptable, it demonstrates the need for the revision proposed by Applicant in Section I, set forth above.
- Page 2-7 of the PMPD states that the “PPEC will require 379 acre-feet of water per year for operations”, and relies on page 3-6 of the FSA to support such statement. Page 3-6 of the FSA, however, is not correct. The Soil & Water section of the FSA (page 4.9-11) and the Soil and water Resources section of the PMPD (page 7.2-13) are correct. On those pages, the PPEC as originally set forth in the AFC is compared to the PPEC with the Enhanced Water Treatment system, set forth in the AFC Refinement docketed on October 27, 2011 (Exhibit 48). The addition of the Enhanced Water Treatment system to PPEC reduced PPEC’s annual water use from 377 to 314 acre-feet per year. Thus, the sentence found on page 2-7 of the PMPD should instead read “The PPEC will require **up to 314** acre-feet of water per year for operations. **(Ex. 200, p. 4.9-11.)**”
- Page 2-9 of the PMPD states: “As an intermediate load and peaking facility, each CTG will be limited to operate no more than 4,000 hr/yr.” This statement does not accurately reflect the Conditions of Certification. The Conditions of Certification do not include such a limit; rather, the Conditions reflect emission limits equivalent to full-load operation at up to 4000 hours per year. Consequently, we suggest that the language at p. 2-9 be modified to read as follows: “As an intermediate load and peaking facility, each CTG will be limited to operate no more than **the equivalent of** 4,000 hr/yr.”



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- On page 2-11 under FINDINGS of FACT, Item 2 reads: “The project will be a natural-gas fired, simple-cycle peaking/ load following facility rated at a gross generating capacity of 300 MW. As noted above, the word “gross” should be replaced with the word “net.”
- On page 2-11, Item 3 reads: “The project includes two transmission line corridors and a new natural gas supply line.” Although Applicant requested approval of two alternate transmission line routes, only one route is necessary for the project. Since the project only requires one transmission line corridor, the sentence should be revised accordingly to reflect the alternate transmission line corridors or, more simply, one transmission line corridor.

Section VI.A – Air Quality

Applicant noticed a typographical error on page 6.2-4 of the PMPD. The second bullet point near the top of the page incorrectly refers to “three 18-cell dry air cooled heat exchangers.” The FSA, however, notes “an 18-cell dry air cooled heat exchangers.” (FSA at 4.1-12). Applicant would like to clarify that the project will have three, 6-cell heat exchangers, for a total of 18 cells. The Applicant therefore requests that the sentence be revised to accurately reflect the heat exchangers, either noting “dry air cooled heat exchangers (totaling 18 cells)” or “three, 6-cell dry air cooled heat exchangers.”

Section VI.E – Hazardous Materials Management

Applicant noticed that Hazardous Materials Appendix B Table-1, Usage And Storage During Operation, PMPD page 6.5-27 (also referred to on PMPD page 6.5-2), does not include the list of chemicals associated with the Enhanced Water Treatment System, which was added to the AFC via an AFC Refinement in October 2011. (Ex. 48.) Page 5-42 of Exhibit 48 contains Table 5.15-1, entitled “Additional Hazardous Materials Usage During Operations of EWT System.” Applicant respectfully requests that the information included in Table 5.15-1 of Exhibit 48 be added to Hazardous Materials Appendix B Table-1.

In the same vein, the reference on PMPD page 6.5-2 that “[t]he list of all hazardous materials proposed for use at the PPEC facility is provided in section 5.0, Hazardous Materials Management, of the AFC, Exhibit 1” needs to be revised to also reflect the materials listed in Table 5.15-1 of Exhibit 48.



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Section VII.A – Biological Resources

There is a discussion on pages 7.1-20 and 7.1-21 of the Biological Resources section of the PMPD regarding a wetland delineation and the Preliminary Jurisdictional Determination Report. The end of the first paragraph on page 7.1-21 notes that the total acreage for potentially jurisdictional Other Waters and Waters of the State is 4.15 acres and sites to the FSA at page 4.2-21. On June 27, 2012, Applicant docketed two separate documents from the Army Corps of Engineers. The first, designated as Exhibit 115 at the July 23, 2012 Evidentiary Hearing, is correspondence from the Department of the Army regarding Preliminary Jurisdictional Determination regarding presence absence of geographic jurisdiction (June 25, 2012). The second document, Exhibit 116 of this proceeding, is a June 26, 2012 letter from the Department of the Army that concludes that the PPEC is not subject to Department of the Army jurisdiction under Section 404 of the CWA and therefore a Department of the Army Permit would not be required.

Based on the foregoing, Applicant requests that a statement be added to the PMPD noting the Department of the Army's conclusion that "[b]ased on the proposed project's current design, onsite potential waters of the U.S. determined in the previously mailed preliminary jurisdictional determination dated June 25, 2012 will not be permanently or temporarily impacted with project implementation and citing Exhibits 115 and 116 as support.

Section VIII.C – Socioeconomics

There is a discussion on page 8.3-6 related to impacts to education services. The last sentence of the last paragraph of this subsection references condition of certification SOCIO-2 that would ensure payment of fees to the applicable school district, however, the condition SOCIO-2 is not included in the PMPD. It was included in the FSA. This appears to be an editorial error and, as such, should be included in the PMPD.

SOCIO-2 The project owner shall pay the one-time statutory school facility development fees to the San Ysidro Elementary School District and Sweetwater Union High School District as required by Education Code Section 17620.

Verification: At least 30 days prior to the start of project construction, the project owner shall provide to the Compliance Project Manager (CPM)



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proof of payment to the San Ysidro Elementary School District and to the Sweetwater Union High School District of the statutory development fee.

Section VIII.D – Noise

Applicant notes typographical errors in the citation to *Communities for a Better Environment v. South Coast Air Quality Management District* on page 8.4-4. The case reference should read *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322.

CONCLUSION

The foregoing represents Applicant's comments on the PMPD. Applicant appreciates the Staff's and the Committee's diligence to publish the PMPD and looks forward to participating in the full Commission's hearing on the PMPD, and possible approval of PPEC, on September 12, 2012.

Very truly yours,

John A. McKinsey for
Melissa A. Foster

MAF:jmw

cc: Proof of Service List



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**APPLICATION FOR CERTIFICATION
FOR THE *PIO PICO ENERGY CENTER PROJECT***

**Docket No. 11-AFC-01
PROOF OF SERVICE
(Revised 8/16/2012)**

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DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on August 27, 2012, I served and filed a copy of the attached APPLICANT'S COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION, dated August 27, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at:

www.energy.ca.gov/sitingcases/piopico/index.html.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

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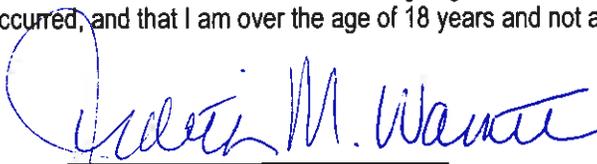
Attn: Docket No. 11-AFC-01
1516 Ninth Street, MS-4
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OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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Michael J. Levy, Chief Counsel
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Judith M. Warmuth