

DOCKET

08-AFC-1

DATE June 22 2009

RECD. June 22 2009

STATE OF CALIFORNIA

Energy Resources Conservation
And Development Commission

In the Matter of:

Application for Certification
For the Avenal Energy Project

Docket No. 08-AFC-1

Energy Commission Staff's Pre-Hearing Conference Statement

On April 23, 2009, the Committee assigned to this proceeding issued a Revised Committee Scheduling Order requiring all parties to file Prehearing Conference Statements by June 22, 2009, and on June 15, 2009, the Committee issued a Notice of Prehearing Conference and Evidentiary Hearing, which further specified what information the prehearing conference statements must contain. Staff provides the requested information below.

1. The topic areas that are complete and ready to proceed to evidentiary hearings.

All topic areas are complete and ready to proceed to evidentiary hearings. Staff has concluded that, with the conditions of certification proposed in the Final Staff Assessment (FSA), no significant adverse impact to the environment or public health and safety will result from the construction or operation of Avenal Energy and the proposed project will comply with all applicable laws, ordinances, regulations and standards.

The applicant, in filed testimony, identified some inaccuracies contained in staff's executive summary and project description in the FSA. Staff will be filing errata, after the scheduled FSA workshop on July 23, 2009, to correct these inaccuracies and to address any others that may be identified at the workshop.

2. The topic areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefor.

All topic areas are complete and ready to proceed to evidentiary hearing.

3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic.

Staff has received written testimony only from the applicant and Intervenor Rob Simpson. To staff's knowledge, no other parties in the proceeding have filed testimony. With regards to applicant's testimony, staff does not believe there are any areas of dispute. With regards to Mr. Simpson's written testimony, he indicates a dispute with staff's analysis centering mainly on air quality. Based on the filings by Mr. Simpson and previous comments by other parties, staff anticipates disputes in the topic areas of air quality and greenhouse gas emissions that will require witnesses be available for cross examination at the evidentiary hearing.

4. The identity of each witness sponsored by each party, the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present a summary of direct testimony by each witness.

The following expert witnesses will appear for staff at the evidentiary hearings to testify and be available for cross examination in the following topic areas:

Air Quality

Witness: Brewster Birdsall, P.E., QEP

Summary of Testimony: Air Quality section of FSA (Exh. 200)

Qualifications: declaration and resume contained in section 8 of the FSA

Time required for direct testimony: 45 minutes

Greenhouse Gas Emissions

Witnesses: Brewster Birdsall, P.E., QEP, Matthew Layton, P.E., and David Vidaver

Summary of Testimony: Air Quality Appendix Air-1: Greenhouse Gas Emissions (beginning on page 4.71 of the FSA)

Qualifications: declarations and resumes for Messrs. Layton and Vidaver are attached.

Time required for direct testimony: 1 hour

Witness: Steve McClary, MRW & Associates, Inc.

Summary of Testimony: McClary, Steven C., Heather L. Mehta, Robert B. Weisenmiller, Mark E. Fulmer and Briana S. Kobor (MRW & Associates). 2009. *Framework for Evaluating Greenhouse Gas Implications of Natural Gas-Fired Power Plants in California*. California Energy Commission. CEC-700-2009-009.

Qualifications: Declaration and resume attached.

Time required for direct testimony: 45 minutes.

Staff witnesses in other areas can also be made available if it is determined at the prehearing conference that their presence at the evidentiary hearing is needed. For those matters not subject to dispute by the applicant or any intervenors, staff proposes to enter testimony into the record by declaration. The testimony and the respective authors are identified below and declarations have been included in the FSA:

Executive Summary – Joseph Douglas
Project Description – Joseph Douglas.

Environmental Assessment

Biological Resources – Richard Anderson
Cultural Resources – Beverly E. Bastian
Hazardous Materials Management – Alvin J. Greenberg, Ph.D. and Rick Tyler
Land Use – David Flores
Noise and Vibration – Shahab Khoshmashrab
Public Health – Obed Odoemelam, Ph.D.
Socioeconomics – Joseph Diamond, Ph.D.
Soil and Water Resources – Casey Weaver
Traffic and Transportation – James Adams
Transmission Line Safety and Nuisance – Obed Odoemelam, Ph.D.
Visual Resources – Mark R. Hamblin
Waste Management – Casey Weaver
Worker Safety and Fire Protection – Alvin J. Greenberg, Ph.D. and Rick Tyler

Engineering Assessment

Facility Design – Steve Baker
Geology and Paleontology – Dal Hunter, Ph.D., C.E.G.
Power Plant Efficiency – Erin Bright
Power Plant Reliability – Erin Bright
Transmission System Engineering – Ajoy Guha, P.E. and Mark Hesters

Alternatives – Christopher Meyer
General Conditions Including Compliance Monitoring and Closure Plan – Steve Munro

5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination.

If Mr. Simpson’s filings are allowed in as testimony, staff wishes to cross-examine him on his qualifications and the testimony concerning air quality. Staff requests 30 minutes for such cross-examination.

Because staff has not yet seen any written testimony from intervenors other than Mr. Simpson, staff respectfully reserves the right to augment the proposed exhibit list and the time requested for direct and cross-examination depending on written testimony filed by any other parties, if such is admitted, their Prehearing Conference Statements, and comments made at the Prehearing Conference.

6. A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply.

Exhibit 200: Final Staff Assessment

Exhibit 201: McClary, Steven C., Heather L. Mehta, Robert B. Weisenmiller, Mark E. Fulmer and Briana S. Kobor (MRW & Associates). 2009. *Framework for Evaluating Greenhouse Gas Implications of Natural Gas-Fired Power Plants in California*. California Energy Commission. CEC-700-2009-009. (Topic area: Greenhouse Gas Emissions)

7. Proposals for briefing deadlines, vacation schedules, and other scheduling matters.

Staff's counsel will be on vacation beginning July 12 and returning July 31. Therefore, staff respectfully requests that, if legal briefs are requested after the conclusion of evidentiary hearings, the deadlines be established as follows: August 12, 2009, for opening briefs and August 21, 2009, for reply briefs.

8. For all topics, the parties shall review the proposed Conditions of Certification listed in the FSA for enforceability, comprehension, and consistency with the evidence, and submit any proposed modifications.

In the Applicant's filed testimony, it proposed a change to clarify the meaning of Traffic and Transportation Condition of Certification Trans-1. Staff agrees with this proposed change and proposes that the condition now read as follows:

TRANS-1 The project owner shall, in coordination with the city of Avenal and Kings County, and in consultation with the Reef-Sunset Unified School District, develop and implement a construction traffic control plan prior to construction site mobilization. Specifically, the traffic control plan shall include the following:

- The use of an off-duty traffic officer or the installation of a trailer-mounted camera activated temporary signal to maintain the existing LOS D during the afternoon peak on the SR-198 eastbound ramp on Avenal Cutoff Road.
- The project owner shall advise project construction contractors and subcontractors that they should not arrive or depart the site within one-half hour of the times noted earlier when school buses use Avenal Cutoff Road between Orange Avenue and I-5.
- Project truck traffic shall avoid turns at ~~using~~ the Jayne Road/Avenal Cutoff Road intersection.
- Traffic safety measures for ingress/egress from the project site to Avenal Cutoff Road shall include at a minimum a full time stop sign, and a flag person during shift changes and heavy equipment ingress/egress.

- Ensure that the construction of the linears uses appropriate mitigation such as cones, signs, trailer-mounted camera, and flagmen/traffic officer to avoid unnecessary disruption of traffic flows on Avenal Cutoff Road.

Verification: At least 90 days prior to the start of site mobilization activities, the project owner shall submit a construction traffic control plan to the city of Avenal, the Kings County Public Works Department, and the Reef-Sunset Unified School District for review and comment, and to the CPM for review and approval, to ensure that the construction of the linears and the increase in construction traffic would not adversely affect traffic flow on Avenal Cutoff Road, and would not degrade existing LOS on the SR-198 eastbound ramp at Avenal Cutoff Road. The plan shall also describe how workers will be advised to avoid arriving and departing the Avenal Energy site within one-half hour of the time when the school bus uses Avenal Cutoff Road. The project owner shall provide the CPM with a copy of any comments received regarding the construction traffic control plan within 15 days of receipt.

Staff is conducting an FSA workshop in Avenal on June 23, 2009, which may provide further information regarding potential areas of dispute. Staff will file a subsequent statement informing the Committee and parties whether any changes to this Prehearing Conference Statement are necessary as a result of the FSA workshop.

DATED: June 22, 2009

Respectfully submitted,

/s/
LISA M. DECARLO
Senior Staff Counsel
California Energy Commission
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**DECLARATION OF
MATTHEW S. LAYTON**

I, Matthew S. Layton, declare as follows:

1. I am presently employed by the California Energy Commission in the Energy Facilities Siting Division as a Supervising Mechanical Engineer.
2. A copy of my professional qualifications and experience is attached hereto and incorporated by reference herein.
3. I helped prepare the greenhouse gas analysis in the Air Quality section for the Avenal Energy Project Final Staff Assessment based on my independent analysis of the Application for Certification and supplements thereto, data from reliable documents and sources, and my professional experience and knowledge.
4. It is my professional opinion that the prepared testimony is valid and accurate with respect to the issue(s) addressed therein.
5. I am personally familiar with the facts and conclusions related in the testimony and if called as a witness could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated:

9/22/09

Signed:

Matthew Layton

At: Sacramento, California

MATTHEW S. LAYTON

Experience Summary

Twenty five years of experience in the electric power generation field, including regulatory compliance and modification; research and development; licensing of nuclear, coal-fired, peaking and combined cycle power plants; and engineering and policy analysis of regulatory issues.

Education

B.S., Applied Mechanics, University of California, San Diego.

Registered Professional Engineer - Mechanical, California.

Experience

2009-present – Supervising Mechanical Engineer, Systems Assessment and Facilities Siting Division, California Energy Commission.

1987-2009 – Senior Mechanical Engineer, Systems Assessment and Facilities Siting Division, California Energy Commission. Review and evaluate power plant proposals, identify issues and resolutions; coordinate with other agencies; and prepare testimony, in the areas of:

- Air quality resources and potential impacts, and mitigation measures;
- Public Health; and
- Transmission Line Safety and Nuisance.

Prepared Commission demonstration project process; contributed to the Energy Technology Status, Energy Development, and Electricity Reports; Project Manager for demonstration projects; evaluated demonstration test plans, procedures, data and reports; disseminated test results; and managed research and development contracts.

1983-1986 – Control Systems Engineer, Bechtel Power Corporation. Managed a multi-disciplined effort to environmentally qualify client's safety related nuclear plant equipment. Performed analyses, calculations and reviews against vendor test reports, NRC guidelines and plant normal and postulated accident conditions. Initiated purchase orders for testing and formulated test objectives and test plans. Developed and implemented plant equipment maintenance and surveillance program based on test results, vendor recommendations and industry operating experiences. Trained client in environmental qualification engineering analysis and equipment maintenance program. Prepared client for NRC audits and presentation.

1981-1983 – Engineer, GA Technologies, Inc. Supervised design and procurement of full-scale test assembly used to evaluate design changes to operating reactor graphite core assembly. Conducted experiment to determine the relationship of graphite oxidation rate to water concentration, temperature, and helium pressure. Environmentally qualified essential and safety related nuclear power plant equipment to comply with NRC guidelines.

**DECLARATION OF
DAVE VIDAVER**

I, **Dave Vidaver** declare as follows:

1. I am presently employed by The California Energy Commission in the **Electricity Supply Analysis Division as an Electric Generation System Specialist III**
2. A copy of my professional qualifications and experience is attached hereto and incorporated by reference herein.
3. I assisted in the preparation of the staff testimony on **Air Quality Appendix Air – 1: Greenhouse Gas Emissions**, for the **Avenal Energy Power Project**. Based on my independent analysis of the Application for Certification and supplements hereto, data from reliable documents and sources, and my professional experience and knowledge.
4. It is my professional opinion that the prepared testimony is valid and accurate with respect to the issue addressed therein.
5. I am personally familiar with the facts and conclusions related in the testimony and if called as a witness could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: 6/18/2009 Signed: Dave Vidaver
At: Sacramento, CA

Dave Vidaver

Electricity Analysis Office
Electricity Supply Assessment Division
California Energy Commission
(916) 654-4656
dvidaver@energy.state.ca.us

Education

BA, Political Science University of California, Berkeley
MS, Agricultural Economics, University of California, Davis

Relevant Coursework: Microeconomic Theory, Econometrics, Time Series Analysis,
Operations Research, Game Theory

Employment (all with the California Energy Commission)

Electric Generation System Specialist I, Electricity Analysis Office, 1998 – 2002

Simulation modeling of WECC for studies of resource adequacy, market price forecasts, emissions and fuel use studies; assessments of market conditions; contributing and principal author of numerous papers, reports and presentations.

Electric Generation System Specialist II, Electricity Analysis Office 2002 – 2005

Supervisor of Electricity System Modeling Unit; supervised four staff responsible for studies of resource adequacy, market price forecasts, emissions and fuel use studies, assessments of market conditions, role of aging power plants; contributing and principal author of numerous reports, papers, and presentations,

Energy Commission Specialist II, Demand Analysis Office, 2005

Monitoring near-term load growth at utility and regional level across the WECC; assessing load-temperature relationships for California and major western utilities and long-term changes in temperatures and load-temperature relationships.

Electric Generation System Specialist III, Electricity Analysis Office, 2005-

Supervisor of Procurement and Resource Adequacy Unit, supervise nine staff responsible for evaluating utility procurement and resource adequacy, combined heat and power and distributed generation issues, role of aging and once-through cooled power plants, compiling and maintaining office databases.

DECLARATION OF STEVEN C. MCCLARY

I, Steven C. McClary declare as follows:

I am presently a Principal and co-owner of MRW & Associates, LLC.

1. A copy of my professional qualifications and experience is attached hereto and incorporated by reference herein.
2. I prepared or supervised the preparation of the Consultant Report *Framework for Evaluating Greenhouse Gas Implications of Natural Gas-Fired Power Plants in California (Greenhouse Gas Framework Report)* based on data from reliable documents and sources, and my professional experience and knowledge.
3. It is my professional opinion that the *Greenhouse Gas Framework Report* is valid and accurate with respect to the issues addressed therein.
4. I am personally familiar with the facts and conclusions related in the testimony and if called as a witness could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: June 22, 2009 Signed: Steven C. McClary
At: Oakland CA

STEVEN CALDWELL McCLARY

PROFESSIONAL EXPERIENCE

Principal
MRW & Associates, LLC
(1990 - Present)

Specialist in economic and regulatory policy analysis, gas and electric supply planning, contract development, and transmission planning. Analyzed fuel supply strategy for municipal utility clients, negotiated power transmission and fuel supply contracts for new generating resources, prepared regulatory filings and testimony for developers and operators of non-utility generators, helped develop strategy in siting cases and related regulatory application for major new cogeneration project. Represented independent power interests in a major state regulatory proceeding regarding access to transmission systems of California utilities. Assisted large independent power developer preparing bid for submittal in California resource auction.

Manager, Policy Development
Resource Management International, Inc.
(1985 - 1990)

Responsible for regulatory and legislative affairs, transmission development, financing and economic analysis for association of municipal utilities. Managed load/resource planning and strategic assessments for municipal utility clients. Prepared regulatory analysis for potential cogeneration developer.

Electric Generation Systems Specialist
California Energy Commission
(1984 - 1985)

Responsible for resource plan assessment, power import policy analysis, and forecasting of natural gas requirements for enhanced oil recovery projects.

Consultant
Sigma Group
(1984)

Performed analysis of market potential in California for electricity sales by Canadian utility; prepared assessment of impact on natural gas sales of non-firm power purchases by California utilities.

Energy Analyst
California Energy Commission
(1977 - 1979)

Prepared survey of alternative nuclear generation technologies; participated in evaluation of nuclear waste and reprocessing techniques. Developed analytical framework for statewide energy analysis.

EDUCATION

Graduate studies in Energy Resource Planning, University of California, Davis, 1984

B.A., Physics, University of California, Santa Cruz, 1976



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
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APPLICATION FOR CERTIFICATION
For the AVENAL ENERGY PROJECT

Docket No. 08-AFC-1
PROOF OF SERVICE
(Revised 6/17/2009)

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DECLARATION OF SERVICE

I, Janet Preis, declare that on, June 22, 2009, I served and filed copies of the attached, Energy Commission Staff's Pre-Hearing Conference Statement with attachment dated June 22, 2009. The original documents, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[www.energy.ca.gov/sitingcases/avenal].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-1

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Janet Preis _____