



March 1, 2010

AES Huntington Beach  
21730 Newland Street  
Huntington Beach, CA 92646  
tel 714 374 1476  
fax 714 374 1495

Mary Dyas  
Project Compliance Coordinator  
Siting, Transmission and Environmental Protection Division  
California Energy Commission  
1516 Ninth Street, MS-2000  
Sacramento, CA 95814

<b>DOCKET</b>	
<b>00-AFC-13C</b>	
DATE	<u>MAR 01 2010</u>
RECD.	<u>MAR 01 2010</u>

**RE: PETITION TO AMEND THE LICENSE EXPIRATION DATE FOR  
AES HUNTINGTON BEACH UNITS 3 & 4**

Dear Ms. Dyas:

As discussed at our meeting with you and other CEC Staff on January 15, 2010, AES Huntington Beach, LLC is submitting the attached Petition to Amend. We are requesting an extension of the certification expiration date for Huntington Beach Units 3 and 4 from September 30, 2011 to December 31, 2020.

If you have any questions, or require any additional information, please contact either Don Vawter at 562-276-5259 or John Carrier at 916-286-0224. Thank you for considering this request.

Sincerely,  
AES Huntington Beach, LLC

A handwritten signature in black ink, appearing to read "Eric Pendergraft".

Eric Pendergraft  
Chief Executive Manager  
AES Huntington Beach, LLC

Enclosure

cc: Julie Gill  
Don Vawter  
John Carrier/CH2M HILL

STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

In the Matter of: ) Docket No. 00-AFC-13C  
)  
Huntington Beach Generating Station )  
Retool Project )  
\_\_\_\_\_ )

**PETITION TO AMEND THE LICENSE EXPIRATION DATE FOR AES HUNTINGTON  
BEACH UNITS 3 & 4**

1. Pursuant to Section 1769 of the California Energy Commission's Rules of Practice and Procedure, AES Huntington Beach, LLC ("AES") requests an extension of the certification expiration date for Huntington Beach Units 3&4 from September 30, 2011 to December 31, 2020. The AES Huntington Beach Retool Project ("the Project") rebuilt and upgraded the internal components of two 1950s vintage boilers that were retired from use by Southern California Edison in 1995. The two boilers are referred to as Units 3&4. The Project was licensed through a highly expedited process that was instituted by the Energy Commission (the "Commission") in response to various Executive Orders issued by former Governor Davis during the energy crisis of 2001. Due to the expedited nature of the permitting process, the Commission established an expiration date for the certification of September 30, 2011. Also, within approximately 5 years, AES was required to present evidence to the Commission that it was in compliance with all conditions of certification, it had or was implementing environmental mitigation measures for which it was responsible and that it was in compliance with all other applicable permits. If AES did not meet these conditions, the Commission could terminate the certification or take other action as permitted by law. In addition, during the initial 5-year period, AES was required to perform certain post-licensing studies to further refine environmental impacts from the Project. Because Units 3&4 use once through ocean cooling (OTC), these requirements included a one-year study of the entrainment and impingement impacts of operating the OTC system. These studies were completed and all other conditions satisfied, which included the funding of a \$5.5 million wetland restoration project to fully mitigate for the expected entrainment and impingement impacts related to the ongoing operation of Units 3&4. As a result, on September 27, 2006, the Commission extended the Project's license for an additional 5 years, until September 30, 2011.

2. The extension of the existing certification is in the public's best interest because it will enable AES to continue operating Units 3&4 while it plans for, permits, finances and constructs replacement infrastructure that does not rely on the existing once through cooling

system. It is important that the units be allowed to continue to operate for the following reasons:

- a) The units are located in the critical Los Angeles basin local capacity reliability area (LCR) and also provide important benefits to the Barre sub-area that cannot be satisfied by other generating units in the LA Basin LCR.
- b) Replacement generation is not currently being constructed due to ongoing litigation related to the viability and use of emission offsets in the South Coast Air Quality Management District (SCAQMD) and the related permit moratorium. There is no certainty about when and how the litigation will be resolved and how long it may take to get replacement infrastructure built. To ensure a reliable supply of electricity, it is critical that existing generation be allowed to continue to operate until a sufficient supply of replacement infrastructure is constructed.
- c) Units 3&4 have already mitigated for their entrainment and impingement impacts associated with its OTC system through the restoration of 66.8 acres of wetlands and associated maintenance.
- d) Under SCAQMD Rule 1304(a)(2), AES is exempt from providing emission reduction credits (ERCs) for replacement units as long as the existing units continue operation without long-term disruption and the new units do not exceed the current MW rating of the units that are being retired. Rule 1304(a)(2) is a long-standing rule that was first adopted in 1979 and most recently amended in 1996. This rule itself is not currently being disputed or legally challenged; however, the application of the ERC exemption under Rule 1304(a)(2) requires that the SCAQMD retire ERCs from its internal bank. Unfortunately, the number and validity of the ERCs in the SCAQMD internal ERC bank is under dispute and being litigated. While it is anticipated that the courts will find that the ERCs in the SCAQMD bank are indeed valid, resolution may take years. Since the request to apply Rule 1304(a)(2) must be contemporaneous with the shutdown of the existing units, it is important that Units 3&4 are allowed to continue to operate until the replacement units can be developed and the litigation of the SCAQMD's ERC rules has been resolved.
- e) The units support the integration of new renewable resources due to their location and ability to be dispatched from 90 MWs to 225 MWs each. Increasing the amount of renewable generation is an important objective of California.

3. To provide for an efficient transition from OTC and to maintain an adequate supply of generation in Southern California until the transition is complete, AES is proposing an extension of the existing certification to December 31, 2020. This date is requested for the following reasons:

- a) In order to implement Section 316(b) of the federal Clean Water Act, the State Water Resources Control Board (SWRCB) has issued a draft policy (the "Policy") that applies to existing power plants that use OTC. The Policy outlines requirements to significantly reduce or eliminate the environmental impacts of OTC systems. It relies on the collaboration of multiple state agencies to oversee the orderly retrofit, replacement, or retirement of plants that use OTC, and includes a schedule that specifies the dates when power plants in the Los Angeles area are expected to

comply<sup>1</sup>. The extension being requested by AES coincides with the compliance date specified for the Huntington Beach plant in the draft 316(b) policy.

- b) AES plans to comply with the Policy by replacing the four units at Huntington Beach with units that do not use OTC. It is expected that the existing units will be replaced in pairs; with Units 3&4 being replaced first followed by Units 1&2. Although, Units 3&4 were refurbished in 2001, they are the preferred units to be repowered first because they have a higher minimum load, longer startup time, slower ramp rate and a marginally higher heat rate than Units 1&2. Consequently, Units 3&4 operate less than Units 1&2 and are not as valuable in the market. Therefore, AES plans to continue operating Units 3&4 while it develops, permits and constructs new replacement generation on open space at the AES plant. When the new units begin commercial operation, Units 3&4 would be shut down and demolished. New infrastructure to replace Units 1&2 would be constructed on the current footprint of Units 3&4. Finally, Units 1&2 would be shutdown and demolished once the second replacement unit has been commissioned. An extension of the Unit 3&4 permit to December 31, 2020 will allow the units to continue to operate and provide important local reliability services until the replacement infrastructure is operational.
- c) AES intends to progress on a schedule to replace Units 3&4 that would result in unit shutdown well before December 31, 2020; however, licensing new generation in the Los Angeles Basin is extremely challenging and subject to significant delays that are often beyond the control of the applicant. The primary obstacle at this point is the acquisition of the requisite ERCs. As noted above, the ongoing legal dispute prevents AES from being able to use the rule 1304(a)(2) ERC exemption. This dispute is not expected to be resolved until 2012, at the earliest. May 1, 2012 is the sunset date for SB 827, and thus, the de facto deadline for the SCAQMD to repeal and replace rules that are at the heart of the dispute. The resolution of the litigation will have a significant impact on AES' ability to secure a permit to construct and it is highly uncertain. So, although AES intends to replace Units 3&4 prior to December 31, 2020, we believe it is prudent to grant the extension to coincide with the 316(b) compliance date to provide a contingency against unplanned delays and avoid the potential need to request another extension in the future.

4. In return for an extension of the certification to December 31, 2020 and to demonstrate AES' commitment to repowering its portfolio, AES will commit to meeting the schedule set forth in Table 1. As shown, AES will prepare and submit an Application for Certification (AFC) by December 31, 2013 that addresses the replacement of all four units at the facility as a single two-phased project.

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<sup>1</sup> The Draft OTC Policy indicates that the compliance schedule is based on the timetable prepared by the energy agencies. For the Los Angeles area this timetable calls for: (1) CA ISO preparation of an enhanced local capacity resource adequacy study by the 2nd quarter of 2010; (2) energy agency infrastructure replacement plan by the second quarter of 2010; (3) CPUC approval of a long-term procurement plan in 2013; (4) CPUC approval of generation projects in 2015; and (5) operation of replacement infrastructure in 2020. California Energy Commission, Draft Staff Report, *Implementation of Once-through Cooling Mitigation Through Energy Infrastructure Planning and Procurement*, July 2009, CEC-200-2009-013-SD, at B-2.

**TABLE 1**  
Proposed Schedule

<b>Milestone</b>	<b>Activity</b>	<b>Completion Date</b>
1	Prepare Preliminary Engineering Design of New Plant	June 2013
2	Prepare Application for Certification for Phased Replacement of Units 1 through 4	December 2013
3	File Application for Certification or Closure Plan	December 31, 2013
4	If AFC is not filed by date above, cease operation of Units 3&4	December 31, 2014
5	AFC deemed to be Data Adequate	February 20, 2014
6	Obtain License for Repowering of Units 3&4	Based on CEC process Anticipated by February 2015
7	Commence Construction of New Units 3&4	Within period allowed by license conditions
9	Planned Commercial On-line Date for New Units 3&4	TBD
10	Demolish Old Units 3&4	Upon commercial operation of new Units 3&4
11	Complete Engineering Design of Replacement Units 1&2	TBD
12	Commence Construction of New Units 1&2	Within period allowed by license conditions
13	Planned Commercial On-line Date for New Units 1 & 2	TBD
14	Demolish Old Units 1 and 2	Upon commercial operation of new Units 1&2

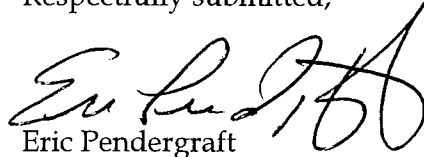
- a) An AFC submittal deadline of December 31, 2013 is requested for multiple reasons including, to allow sufficient time for AES to conduct the appropriate engineering design studies and determine its master site plan, to settle the SCAQMD ERC disputes, to acquire additional ERCs from the market, if necessary, and to prepare the AFC. Additionally, the CEC staff is currently overwhelmed with numerous renewable project applications which are a high priority. Submission of an AFC by the end of 2013 will allow the current glut of renewable applications to be processed.
- b) If AES does not submit an AFC by December 31, 2013, it will submit a closure plan in lieu of an AFC and cease operations of Units 3&4 by December 31, 2014, or a later date specified by the CEC.

For the reasons cited above, AES requests an extension of the Project AFC to December 31, 2020. This will allow AES to modernize its facility while preserving a reliable supply of electricity in the interim. The modernized facility will have less visual impact, better efficiency, fewer environmental impacts and enable a greater integration of intermittent renewable generation through more flexible operation. The plan also will not trigger environmental justice concerns by eliminating the need to site a new facility elsewhere.

AES looks forward to working with the CEC to help facilitate this orderly transition. If there is additional information that is needed to process this request, please let us know.

March 1, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Pendergraft". The signature is fluid and cursive, with a large, stylized initial "E" and "P".

Eric Pendergraft  
Chief Executive Manager  
AES Huntington Beach, LLC  
690 N. Studebaker Road  
Long Beach, California 90803  
Office: (562) 493-7855  
Facsimile: (562) 493-7320