

# DOCKET

## 09-AFC-1

DATE 9/21/2009

RECD. 9/21/2009

STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

Application for Certification for the Watson )  
Cogeneration Steam and Electric Reliability Project )  
 )  
 )  
\_\_\_\_\_ )

Docket No. 09-AFC-1

### **WATSON COGENERATION COMPANY’S OBJECTIONS TO CERTAIN COMMISSION STAFF DATA REQUESTS SET 1 AND NOTICE OF NEED FOR ADDITIONAL TIME TO RESPOND**

Pursuant to Section 1716 of the Commission’s regulations, Watson Cogeneration Company (“Applicant”), hereby files the following *Objections to Certain Commission Staff Data Requests Set 1 and Notice of Need for Additional Time to Respond*. The Data Requests were filed on September 1, 2009.

#### **Notice of Need for Additional Time**

The Commission Staff has requested that the Applicant provide a response to all data requests in Set 1 by September 28, 2009, or at such later date as may be mutually agreeable. While the Applicant will make a strong effort to complete its responses to the Staff’s questions as soon as possible, the Applicant will need up to an additional thirty days to respond to Data Requests 7, 12, 16-31 33-34, 37 and 39. Additional time is needed because the Applicant needs to consult with outside specialists in order to prepare a complete response to these questions. Therefore, the Applicant requests that the Staff agree to extend the date for responding to these questions until October 26, 2009.

## **Notice of Objections**

Section 1716 of the Commission's regulations (Cal. Code Regs., tit. 20 § 1716) contains the basic framework for information exchanges (i.e., Data Requests and Responses) for licensing proceedings: “A party may request from an Applicant ... information which is reasonably available to the Applicant which is relevant to the application proceedings or reasonably necessary to make any decision on the ...application.” [§ 1716(b).] The Applicant may then answer or object to the request. If the Applicant objects, the requesting party may then forego the request, seek alternative means of obtaining the desired information, or petition for an Order directing the Applicant to provide the information. In considering the reasonableness of a data request, the Commission evaluates whether the information sought appears to be reasonably available, relevant and necessary for the Commission to reach a decision on the Application.

For the reasons set forth below the Applicant objects to Staff Data Requests 18, 21 and 22:

18. Please provide details on other water supply streams associated with the BP Carson refinery that will be provided by reclaimed water, groundwater, and municipal water.
21. Please provide a monthly estimate of steam requirements at the adjacent BP Carson refinery.
22. a. Please address whether water use and power output at the Watson cogeneration facility including the proposed fifth train will be regulated to match steam requirements at the adjacent refinery.  
b. Please provide a detailed discussion regarding the feasibility of regulating water use and power output and methods to minimize water use to match the requirements at the adjacent refinery.

The Applicant objects to Data Requests 18, 21 and 22 on the grounds that the information requested is not relevant to this Application and is not reasonably necessary to make any decision on the Application. Each of these three questions requests detailed information regarding the operating characteristics of the BP Carson Refinery (Refinery). The Refinery is obviously not a power plant and is not subject to the jurisdiction of the Commission. Although

the Watson Cogeneration Steam and Electric Reliability Project (Project) will provide additional process steam to the Refinery, the Refinery is an existing industrial facility that is not within the licensing jurisdiction of the Commission. The Commission has no authority whatsoever to regulate or condition the circumstances under which the refinery will operate. Therefore, detailed information regarding the water streams associated with the Refinery is not reasonably necessary to any decision the Commission must make regarding this Application. Similarly, the monthly estimate of steam requirements of the Refinery is entirely irrelevant to any decision regarding this Application.<sup>1</sup> Furthermore, Data Request 22 asks for a discussion of the feasibility of "matching" requirements of the adjacent refinery to the water use and power output of the Project.<sup>2</sup> We are unaware of any law or regulation that would require such "matching". Whether the question requires a discussion of matching the Refinery to the Project, or vice versa, such a discussion would require a detailed description of Refinery operations that is far outside the jurisdiction of the Commission. Moreover, Data Request 22 asks for information regarding the entire cogeneration facility even though the Application seeks approval of a more limited project. The operations of the existing cogeneration facility are beyond the scope of the current Application and the Commission does not have the authority in this proceeding to investigate or modify the conditions of certification of the existing facility.

The Applicant further objects to Data Requests 18, 21 and 22 on the grounds that the request for detailed information regarding the operation of the Refinery is highly confidential. The information sought by Staff, would be potentially revealing of the Refinery's competitive abilities. Access to this information could enable a competitor to precisely understand the Refinery's strengths and weaknesses in the marketplace and put the Refinery at a severe

---

<sup>1</sup> Data Request 21 is also too vague to be answered. This request does not state the time period of the monthly estimate, nor its relevance to any decision the Commission must make regarding the Application.

<sup>2</sup> Data Request 22 is similarly vague. It asks the Applicant to discuss the feasibility of "matching" power output and water use, without explaining what "matching" means.

competitive disadvantage. For the Refinery to successfully compete in this market it needs to maintain the confidentiality of its operations. The disclosure of the Refinery's operating characteristics would negatively impact the Refinery's ability to compete and cause it serious economic injury in the marketplace. Moreover, because the Commission has no regulatory authority over the Refinery, there is no countervailing public interest that militates against maintaining this confidential information.

**Conclusion**

The Applicant looks forward to working with the Staff, other parties and the Commission to provide the information that is necessary to license this facility. However, it will not be possible to provide all of the requested information within thirty days of the requests. In addition, the Commission must be vigilant to ensure that no party imposes informational requirements that exceed the scope of the Commission's regulatory authority or that imposes upon projects any burden that is not shared equally by all Applicants that have projects licensed by the Commission.

September 21, 2009

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By  \_\_\_\_\_

Christopher T. Ellison  
Greggory L. Wheatland  
2600 Capitol Avenue, Suite 400  
Sacramento, California 95816  
Telephone: (916) 447-2166  
Facsimile: (916) 447-3512

Attorneys for Watson Cogeneration Company

STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

Application for Certification for the Watson )  
Cogeneration Steam and Electric Reliability Project ) Docket No. 09-AFC-1  
\_\_\_\_\_)

**PROOF OF SERVICE**

I, Karen A. Mitchell, declare that on September 21, 2009, I served the attached ***Watson Cogeneration Company's Objections To Certain Commission Staff Data Requests Set 1 And Notice Of Need For Additional Time To Respond*** via electronic mail and United States Mail to all parties on the attached service list.

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



---

Karen A. Mitchell



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 **WATSON COGENERATION  
STEAM AND ELECTRICITY RELIABILITY  
PROJECT**

Docket No. 09-AFC-1

PROOF OF SERVICE LIST  
(Est. 7/29/09)

APPLICANT

Ross Metersky  
BP Products North America, Inc.  
700 Louisiana Street, 12th Floor  
Houston, Texas 77002  
[ross.metersky@bp.com](mailto:ross.metersky@bp.com)

APPLICANT'S CONSULTANTS

URS Corporation  
Cynthia H. Kyle-Fischer  
8181 East Tufts Avenue  
Denver, Colorado 80237  
[cindy\\_kyle-fischer@urscorp.com](mailto:cindy_kyle-fischer@urscorp.com)

COUNSEL FOR APPLICANT

Chris Ellison  
Ellison Schneider and Harris LLP  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816  
[cte@eslawfirm.com](mailto:cte@eslawfirm.com)

INTERVENORS

ENERGY COMMISSION

KAREN DOUGLAS  
Chair and Presiding Member  
[kldougla@energy.state.ca.us](mailto:kldougla@energy.state.ca.us)

JULIA LEVIN  
Commissioner and Associate  
Member  
[jlevin@energy.state.ca.us](mailto:jlevin@energy.state.ca.us)

Gary Fay  
Hearing Officer  
[gfay@energy.state.ca.us](mailto:gfay@energy.state.ca.us)

Alan Solomon  
Project Manager  
[asolomon@energy.state.ca.us](mailto:asolomon@energy.state.ca.us)

Christine Hammond  
Staff Counsel  
[chammond@energy.state.ca.us](mailto:chammond@energy.state.ca.us)

Public Adviser's Office  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)

INTERESTED AGENCIES

California ISO  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

\*indicates change