

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

DOCKET	
09-AFC-1	
DATE	Oct. 11 2011
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Application for Certification for the Watson)
Cogeneration Steam and Electric Reliability Project) Docket No. 09-AFC-1
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**APPLICANT'S
PREHEARING CONFERENCE STATEMENT**

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October 11, 2011

STATE OF CALIFORNIA

Energy Resources Conservation
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Pursuant to the Notice of Prehearing Conference and Evidentiary Hearing, dated September 12, 2011 (“Notice”), Watson Cogeneration Company (“Watson” or “Applicant”) files Applicant’s Prehearing Conference Statement for the proposed Watson Cogeneration Steam and Electric Reliability Project (“Project”). The following statements are responsive to items one through 9 provided in the Notice.

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

All topics are complete and ready to proceed.

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

All topics are complete and ready to proceed.

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

Soil & Water Resources requires adjudication to resolve multiple contested issues. The Project as proposed does not involve an increase in freshwater use over the current usage at the Watson Cogeneration Facility. Watson has agreed to use reclaimed water for water use above the current freshwater usage. With the freshwater cap proposed by Watson, there is no change in the baseline amount of freshwater use, and no significant impacts associated with freshwater use. As such, there is no basis for further regulation of the Project’s water use because there is no

change to the baseline for freshwater use, no significant impacts as a result of the Project, and no conflict with applicable laws, ordinances, regulations, and standards (“LORS”).

Watson disagrees with certain conditions of certification proposed by Staff for water supply and use for the following reasons. First, Watson opposes Staff Conditions of Certification SOIL&WATER-5, -7, and -8 that would make execution of a contract for reclaimed water a prerequisite to operation. Watson is not required to use reclaimed water if its freshwater consumption remains below the current usage per Staff Condition SOIL&WATER-5. As such, Staff’s proposed condition requires Watson to negotiate a contract that it may never need. Conversely, the condition is unnecessary because to exceed the freshwater cap Watson is required to use reclaimed water and must, therefore, execute an agreement to obtain it. Finally, the Final Staff Assessment (“FSA”) conditions Project operation upon execution of agreements for reclaimed water with or between parties Watson cannot control and gives such parties undue negotiating leverage, thereby potentially raising the cost of the reclaimed supply Staff seeks to incent.

Second, Watson contests Staff’s Condition of Certification SOIL&WATER-5 that would require that reclaimed water supplied to the five trains of the Watson Cogeneration be a supply above and beyond reclaimed water already being supplied to either Watson Cogeneration or the BP Refinery. Watson opposes this condition because it would unlawfully regulate an independent entity (the BP Refinery) not under the Commission’s jurisdiction nor under the control of Watson.

Third, Watson is not in agreement with Staff Condition of Certification SOIL&WATER-5 which sets the cap for freshwater use at 4,219 acre feet per year (“AFY”) based on the most recent three years of operation of the existing four cogeneration units. Watson has proposed to cap the use of freshwater at all five trains of Watson Cogeneration at an amount based on the most recent eleven years (2000-2010) of use by the existing four trains (4,609 AFY). Staff’s proposed cap does not capture the range of variables affecting historical freshwater demand at the four trains.

Fourth, Watson contests Staff’s condition SOIL&WATER-9, which requires that condensate return to the Project from Watson Cogeneration or the BP Refinery be from steam supplied from the Project or Watson Cogeneration, and that condensate not be augmented with additional water at Watson Cogeneration or the BP Refinery. However, because Watson Cogeneration is not the sole steam supply source for the BP Refinery, the BP Refinery’s

condensate system will contain condensate that did not originate as steam from Watson Cogeneration. Also, as steam produced by the BP Refinery is generated from reclaimed water, this does not constitute a use of freshwater.

Applicant's Soil & Water testimony demonstrates that the Project's proposed water use does not increase freshwater use at all let alone in a manner that would cause a significant, adverse environmental impact or fail to comply with all applicable LORS. Watson and Commission Staff continue to discuss the contested issues identified herein, and our ongoing effort to resolve these issues may change what remains contested by the October 17, 2011 Prehearing Conference.

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 direct testimony by each witness;

Applicant's witnesses, their topic areas, a brief summary of their testimony, and their qualifications are set forth in the Applicant's pre-filed testimony filed on October 3, 2011. A list of Applicant's witnesses and their topic areas is attached hereto as Attachment A. As for direct examination, assuming the contested issues remain unresolved, Applicant anticipates direct examination on Project Description and Soil & Water Resources to be 30 to 45 minutes each.

5. The identities of the witnesses, if any, that the party desires to have testify via telephone;

Applicant's Air Quality expert, Gregory S. Darwin shall testify via telephone, if necessary.

6. 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;

Applicant anticipates cross-examination of CEC Staff on Soil & Water Resources to be 45 minutes. Such cross-examination will address issues related to the freshwater use cap proposed for the Project by Applicant, and Staff's proposed adjustment of that cap, and other issues related to the supply of reclaimed water from the BP Refinery.

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

Applicant's exhibit list is attached as Attachment B to Applicant's Identification of Contested Issues, filed October 3, 2011, and is provided again hereto as Attachment B. The declarations are provided in Appendix B to Applicant's Opening Testimony, submitted October 3, 2011.

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

The September 12, 2011 *Notice of Prehearing Conference and Evidentiary Hearing* established a Prehearing Conference date of October 17, 2011, and an Evidentiary Hearing date of November 1, 2011. Applicant requests deadlines of November 11, 2011 for opening briefs and November 18, 2011 for reply briefs. In addition, the Committee should request an expedited transcript of the Evidentiary Hearings. Applicant's requested briefing schedule is as follows:

Prehearing Conference	October 17, 2011
Evidentiary Hearing	November 1, 2011
Opening Briefs	November 11, 2011
Reply Briefs	November 18, 2011

9. A description of any modifications to the conditions of certification listed in the Final Staff Assessment that the party intends to propose.

Applicant's proposed modifications to the conditions of certification in the Final Staff Assessment were described in Applicant's comments on the FSA, submitted September 22, 2011. Applicant's requested modifications to Soil & Water Resources conditions of certification were provided in Attachment A to these comments. Applicant's arguments supporting modifications to conditions of certification SOIL&WATER-5, -7, -8, and -9 are consistent with the discussion in response to #3 of this statement.

Additionally, Applicant has requested a global change in the FSA from Staff's identification of the Watson Cogeneration Steam and Electric Reliability Project as "BP Watson" to "Watson Project," as Staff's abbreviation incorrectly implies that the Applicant is British Petroleum ("BP"), which is incorrect. As clearly described in the AFC, the Project will be built,

owned and operated by Watson Cogeneration Company, a separate and distinct entity from BP, the owner of the refinery.

October 11, 2011

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By  _____

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Attorneys for Watson Cogeneration Company

ATTACHMENT A

APPLICANT'S WITNESSES AND TOPIC AREAS

TOPIC	WITNESS
Project Description	Ross Metersky, Stephen Garrett, Omar Olivares, Stephen Moore, Gene Amrhein, Joseph Landwehr, Philip French, and Charles Schwartze
Air Quality	Gregory S. Darvin
Biological Resources	David Kisner
Cultural Resources	Jeremy Hollins, MA
Hazardous Materials	Tricia Winterbauer and Gregory S. Darvin
Land Use	Jean Sanson, AICP
Noise and Vibration	Ronald E. Reeves
Public Health	Richard B. Booth
Socioeconomic Resources	Katie Carroz
Soil and Water Resources – Water	Bob Collacott, Omar Olivares, Stephen Moore, and Stephen Garrett
Soil and Water Resources – Soil	Andrea Parker
Traffic and Transportation	Noel Casil, PE, TE, PTOE
Transmission Line Safety and Nuisance	Stephen Garrett
Visual Resources	Brian Madigan and Angela Leiba
Waste Management	Tricia Winterbauer and David Bernal
Worker Safety	Tricia Winterbauer
Facility Design, Power Plant Efficiency, and Power Plant Reliability	Stephen Garrett, Omar Olivares, Gene Amrhein, Joe Landwehr, Philip French, and Charles Schwartze
Geology and Paleontology – Geologic Resources	Casey Lee Jensen and Arnel Bicol
Geology and Paleontology – Paleontological Resources	Stephen Blakely and Lanny H. Fisk, PhD
Transmission System Engineering	Charles Schwartze, Stephen Garrett, and Ross Metersky
Alternatives	Ross Metersky

ATTACHMENT B

APPLICANT'S EXHIBIT LIST

Docket Number: 09-AFC-1

Date: October 3, 2011

Project Name: Watson Cogeneration Steam and Electric Reliability Project

Exhibit	Docket Transaction Number	Brief Description	Offered	Admitted	Refused
1	50584	Watson Cogeneration Steam and Electric Reliability Project, Application for Certification (AFC), dated March 2009, and docketed on March 19, 2009. [Note: Appendices J (Cultural Resources Technical Report) and K (Paleontological Resources Technical Report) were previously filed separately under the rules of confidentiality and have not been reproduced here.]			
2	52187	Watson Cogeneration Steam and Electric Reliability Project, Supplement in Response to CEC Data Adequacy Review, dated June 2009, and docketed on June 29, 2009.			
3	53444	Watson Cogeneration Steam and Electric Reliability Project, Responses to CEC Data Requests #1-39, dated September 2009, and docketed on September 25, 2009.			
4	53529	Watson Cogeneration Steam and Electric Reliability Project, Responses to CEC Data Requests (#1-39), Air Quality Response #4, Status Report 1, dated October 2009, and docketed on October 1, 2009.			
5	53800	Watson Cogeneration Steam and Electric Reliability Project, Remainder of Responses to CEC Data Requests #1-39, dated October 2009, and docketed on October 23, 2009.			
6	53971	Watson Cogeneration Steam and Electric Reliability Project, Responses to CEC Data Requests (#1-39), Air Quality Response #4, Status Report 2, dated November 2009, and docketed on November 2, 2009.			
7	54193	Watson Cogeneration Steam and Electric Reliability Project, Response to SCAQMD Questions (Additional Information Request for Watson Cogeneration Steam and Electric Reliability Project, A/Ns 496922, 496924, and 496925), dated November 2009, and docketed on November 18, 2009.			

Exhibit	Docket Transaction Number	Brief Description	Offered	Admitted	Refused
8	54708	Watson Cogeneration Steam and Electric Reliability Project, Responses to CEC Data Request Set 1 (32) and Set 2 (40-48), dated January 2010, and docketed on January 6, 2010.			
9	55692	Watson Cogeneration Steam and Electric Reliability Project, Responses to Questions from the January 20, 2010 Issues Resolution Workshop, dated February 2010, and docketed on February 25, 2010.			
10	55803	Watson Cogeneration Steam and Electric Reliability Project, Addendum Application for Using Aqueous Ammonia in Watson Cogeneration Steam and Electric Reliability Project, AA/Ns 496922, 496924, and 496925 [Reference: Watson Cogeneration Company, Electric Generation (Process 17), BP Carson Refinery, Facility ID 131003] and Application for Change of Condition to Watson Cogeneration Units 1-4 (Watson Cogeneration Steam and Electric Reliability Project) [Reference: Watson Cogeneration Company at the BP Carson Refinery (Facility ID 131003; Process 17, Systems 1-4), dated February 24, 2010, and docketed on March 2, 2010.			
11	55801	Watson Cogeneration Steam and Electric Reliability Project, Aqueous Ammonia Off-Site Consequence Analysis, dated March 2010, and docketed on March 4, 2010.			
12	56201	Watson Cogeneration Steam and Electric Reliability Project, Supplement to Responses to Questions from the January 20, 2010 Issues Resolution Workshop, dated April 2010, and docketed on April 2, 2010.			
13	56222	Watson Cogeneration Steam and Electric Reliability Project, Aqueous Ammonia Off-Site Consequence Analysis, Revised April 2010, and docketed on April 12, 2010.			
14	56861	Watson Cogeneration Steam and Electric Reliability Project, Responses to Questions from SCAQMD, dated May 21, 2010, and docketed on May 25, 2010.			
15	57099	Watson Cogeneration Steam and Electric Reliability Project, Response to Questions from California Energy Commission Staff, dated June 2010, and docketed on June 11, 2010.			

Exhibit	Docket Transaction Number	Brief Description	Offered	Admitted	Refused
16	59501	Watson Cogeneration Steam and Electric Reliability Project, Comments on the Preliminary Staff Assessment, dated January 2011, and docketed on January 17, 2011.			
17	60150	Watson Cogeneration Steam and Electric Reliability Project, Responses to CEC Requests from the February 3, 2011 PSA Workshop Continuation, dated March 2011, and docketed on March 28, 2011.			
18	61388	Watson Cogeneration Steam and Electric Reliability Project, Responses to June 15, 2011 CEC Data Requests, dated July 2011, and docketed on July 14, 2011.			
19	61490	Watson Cogeneration Steam and Electric Reliability Project, Responses to June 30, 2011 LARWQCB Response to CEC Participation Request, dated July 2011, and docketed on July 21, 2011.			
20	61490	Watson Cogeneration Steam and Electric Reliability Project, Comments on the Final Staff Assessment, dated September 2011, and docketed on September 22, 2011.			
21	53444	Watson Cogeneration Steam and Electric Reliability Project, Authority to Construct Permit Application [SCAQMD ATC Application], dated March 23, 2009 [Docketed as Response 8 in Responses to CEC Data Requests #1-39, dated September 2009], and docketed on September 25, 2009.			
22	55803	Watson Cogeneration Steam and Electric Reliability Project, Addendum Application [SCAQMD ATC Application] for Watson Cogeneration Facility Authority to Construct Permit Application, dated February 24, 2010 [Docketed with the Addendum for Aqueous Ammonia], and docketed on March 2, 2010.			
23	Not yet assigned	Watson Cogeneration Steam and Electric Reliability Project, Applicant's Opening Testimony, dated October 2011, and docketed on October 3, 2011.			

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Application for Certification for the WATSON)
COGENERATION STEAM AND ELECTRICITY) Docket No. 09-AFC-1
RELIABILITY PROJECT)
_____)

PROOF OF SERVICE

I, Karen A. Mitchell, declare that on October 11, 2011, I served the attached *Applicant's Prehearing Conference Statement* via electronic and U.S. 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

SERVICE LIST
09-AFC-1

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