

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

<b>DOCKET</b>	
<b>02-AFC-1C</b>	
DATE	_____
RECD.	Dec. 02 2011

In the Matter of:	)	Docket No. 02-AFC-1C
	)	Robert Sarvey's
Blythe Energy Project II	)	Comments on the Five Year
	)	Extension Request for Blythe II
CAITHNESS BLYTHE II, LLC	)	
_____	)	

Introduction

On October 12, 2011, the project owner filed a second petition to extend the deadline to commence construction for the BEP II for five years. To receive the extension request an applicant must provide a showing of good cause. Good cause requires a showing that a diligent effort has been made to construct the project within the prescribed time frames and that failure to do so was caused by obstacles which could not reasonably be avoided.

CEC Staff filed its analysis of the second petition on November 14, 2011. CEC staff determined that the project has had six years with an Energy Commission license during which time it has attempted to get a PPA but has been unable to do so.<sup>1</sup> Staff also believes that, *“asserting that the interconnection agreement process was out of the control of the project owner is not reasonable when a large part of the delay was caused by modifications the project owner made to their project.”* In short Staff has opined that the project applicant has failed to show good cause for the license extension but the applicant should be allowed to address the full Commission. I agree with staff that the applicant has failed to show good cause for a five year extension. A five year extension is a very long time and the current analysis even considering the most recent amendment would certainly be stale after a five year period. If a five year extension were granted additional staff time and ratepayer resources would be devoted to a project that

---

<sup>1</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 2

has very little chance of ever being built. Considering the circumstances the Commission should deny the extension request.

### Diligence

On November 19, 2009 the applicant submitted a petition to amend the Blythe II Project. On October 29, 2010, the applicant requested a one (1) year extension in order to continue the Amendment proceeding. On December 1, 2010 the project was granted a 12 month extension by the Energy Commission to allow additional time for the project owner to submit the required information for staff to complete its amendment analysis.

**According to CEC Staff the applicant has only recently provided some of the required information.**<sup>2</sup> The applicant has had over two years to supply the required information to CEC Staff to complete this amendment. This is certainly not a demonstration of due diligence in completing the required amendment before asking for an additional extension request of five years.

The project proponent did not file the current five year extension request until October 12, 2011 leaving the Commission with just two months to process the extension request and get the item to a regularly scheduled business meeting.<sup>3</sup> **The project owner has showed a lack of due diligence in pursuing this extension.**

The Applicant has still failed to finalize a Large Generator Interconnection Agreement (LGIA) with the California ISO despite being certified by the CEC in December of 2005. Caithness has claimed in its current request for an extension that this issue is out of its control. Staff notes that much of the delay in obtaining the interconnection agreement was caused by, **“modifications the project owner made to their project.”**<sup>4</sup> Staff identifies eight recently permitted projects which started their interconnection process

---

<sup>2</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 3

<sup>3</sup> See Commission Denial of the Tesla Extension Page 5 “There is no evidence explaining why FPL (or PG&E) still took no action then, or why PG&E waited to file its Petition until April 24, 2009, less than two months before the construction deadline.

[http://www.energy.ca.gov/sitingcases/tesla/compliance/2009-09-23\\_Order\\_Denying\\_LicExten.pdf](http://www.energy.ca.gov/sitingcases/tesla/compliance/2009-09-23_Order_Denying_LicExten.pdf)

<sup>4</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 4

“Asserting that the interconnection agreement process was out of the control of the project owner is not reasonable when a large part of the delay was caused by modifications the project owner made to their project.”

and completed it in three years or less.<sup>5</sup> Staff also notes that, “*Questions remain regarding the manner in which the project will connect to the grid*”<sup>6</sup> indicating that additional delay in the interconnection agreement may be forthcoming.

The applicant must obtain a new PSD permit and a Modified Authority to Construct both of which will lead to additional staff analysis and amendments.<sup>7</sup> According to the MDAQMD the applicant has yet to submit a complete application for the modified ATC.<sup>8</sup> If it takes another five years to start construction the current analysis will be stale and staff will have to re-examine the project for a third time to update regulatory requirements and examine cumulative impacts from new projects in the Blythe area.

#### Blythe II has little chance in obtaining a PPA

The applicant claims that the project is needed to support renewable generation. “*Staff’s opinion is that the project’s location may serve to limit their capabilities to do so. This project is not in an area that needs capacity, and will essentially act as an import in California load centers. It is unlikely that the utilities will look to sign contracts with fossil generators unless those generators are in locations that maximize the value of the generators, locations such as the Los Angeles Basin, San Diego, Fresno and the Greater Bay Areas.*”<sup>9</sup> Staff’s conclusion seems well founded as according to the project owner it bid the BEP II into SCE’s Request for Proposals (RFP) for New Generation Resources in May of 2005, the Arizona Public Service Company’s (APS) RFP for Long Term Capacity Supply in July of 2005, Imperial Irrigation District’s (IID) RFP for Gas Fired Capacity in December of 2005, SCE’s Request for Offers (RFO) for New Generation in August of 2006, SCE’s Revised New Generation RFO in December of 2006, as well as SCE’s RFP solicitation in 2008.

---

<sup>5</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 4

<sup>6</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 4

<sup>7</sup> PSD Permit Expired 18 months from approval date of April 25, 2007  
<http://www.regulations.gov/#!documentDetail;D=EPA-R09-OAR-2007-0723-0001>

<sup>8</sup> See Attachment A

<sup>9</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 4

It is unlikely that any RFP will be immediately forthcoming as San Diego Gas and Electric is already seeking to fulfill their generation needs with the Pio Pico and Quail Brush Projects<sup>10</sup> and according to the standardized planning assumptions currently used in the LTPP PG&E and SCE have 69% and 47% Planning Reserve Margins for 2010.<sup>11</sup> Regardless there appears to be little need for a 570 MW power plant located far from any load center.

### Blythe II should file a new AFC

Staff notes that circumstances have changed since the original project was approved in December 2005 that could warrant the filing of a new AFC.<sup>12</sup> Additional Energy Projects like the Blythe Solar Project have materially changed circumstances in the project area particularly impacts to the Blythe Airport. The Commissions Final Decision on the Blythe Solar Project states:

*“The BSPP, in combination with the existing and proposed power plants in the project vicinity would contribute significantly to constraining the airspace available for low-flying aircraft operating at Blythe Airport. The BSPP would introduce thermal plumes and glint and glare into the airspace already compromised by the presence of Blythe I; the approved construction of Blythe II; one existing power plant and the proposed construction of two additional power plants in the Blythe Airport Land Use Compatibility zones; and two proposed solar tower plants located north of the BSPP. These existing and proposed plants introduce the risk of thermal updrafts and glint and glare into the airspace. In addition, the presence of the McCoy Mountains directly west of the Airport, already constrains the use of low altitude airspace in that area.*

*Conditions of Certification are included to reduce and mitigate the impacts of the BSPP related to glint and glare to the extent possible, but it is undetermined if the effects of the proposed mitigation would reduce the cumulative impacts to less than significant. (Ex. 207, Aviation Assessment, pp. 41.) However, we find that overriding considerations warrant acceptance of this possible cumulative impact in this case, and have included override findings elsewhere in this Decision.”<sup>13</sup>*

---

<sup>10</sup> <http://docs.cpuc.ca.gov/published/proceedings/A1105023.htm>

<sup>11</sup> <http://docs.cpuc.ca.gov/efile/RULC/127543.pdf> Pages 17 and 18

<sup>12</sup> [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#), Posted November 14, 2011. Page 4

<sup>13</sup> Commission Final Decision Blythe Solar Power Project Page 472

Even without the Blythe II Project and the newly approved solar projects CEC staff already has received complaints from six experienced pilots (three private individuals, two from federal agencies, and one from BEP1) regarding moderate to severe turbulence encountered when flying over BEP1 cooling towers while attempting to land on runway 26.<sup>14</sup>

Staff has already determined that, the two mitigation measures pertaining to Blythe Airport (right-hand traffic pattern for Runway 26 and calm wind Runway 35) mandated in the Energy Commission Blythe II Decision regarding Traffic and Transportation Condition of Certification **TRANS-9** (items 2 and 3) are no longer appropriate. This is due to pilot's potential exposure to thermal plumes and flash blindness or specular reflections from Blythe Solar Power Project (BSPP) air-cooled condensers and solar arrays, respectively. In fact, staff has been advised by FAA representatives that given the presence of the BSPP, a right-hand traffic pattern for Runway 26 would not be appropriate.<sup>15</sup> With the new circumstances described above a new AFC and an override for the significant cumulative impacts to the Blythe airport is necessary. Public Resources Code, section 21092.1, would require re-circulation and public notice since this is a cumulative impact that did not exist when the Blythe II Project was certified. If the five year extension is granted the current review including the 2009 amendment will need to be revisited as the analysis will be very stale with some portions of it being as much as twelve years old.

### Blythe II is Wasting Precious Commission and Ratepayer Resources

The Blythe II project also will need a modified ATC and a new PSD permit. There are new regulations for Greenhouse Gases, new PM 2.5 requirements and new one hour standards for SO<sub>2</sub> and NO<sub>2</sub>. These new regulations will likely lead to more amendments to the CEC license and significant staff time and resources to comply with PSD requirements. If a five year extension is granted many more analyses will probably be

---

<sup>14</sup> <http://www.riverside.courts.ca.gov/grandjury/08blytheairport.pdf> Page 3

<sup>15</sup> [Energy Commission Staff Data Requests # 21](#) Page 2

required due the rapidly changing regulatory landscape and the large number of new energy projects being sited in the Blythe area. Currently the Blythe II project is paying a \$25,508 a year compliance filing fee while the Energy Commission Staff devotes considerable ratepayer resources processing the Blythe II's myriad of amendments.<sup>16</sup> The AFC filing fee for a 570 MW power plant would be \$545,775. From a ratepayer standpoint this continuing saga of a 570 MW power plant and its amendments is a drain on ratepayer resources which would partially be alleviated by the filing of a new AFC. Ratepayers are prejudiced by this continuing amendment debacle for a project that probably will never be built since it is unable to obtain a PPA because of its location.<sup>17</sup>

### Conclusion

The Commission should deny the requested five year extension request as the project owner has failed to establish good cause for the five year extension request.

---

<sup>16</sup> [http://www.energy.ca.gov/siting/filing\\_fees.html](http://www.energy.ca.gov/siting/filing_fees.html)

<sup>17</sup> *"It is unlikely that the utilities will look to sign contracts with fossil generators unless those generators are in locations that maximize the value of the generators, locations such as the Los Angeles Basin, San Diego, Fresno and the Greater Bay Areas."* [Staff Analysis and Recommendation Regarding the Requested Extension of the Deadline for the Commencement of Construction](#). Posted November 14, 2011. Page 4

## Attachment A

November 29, 2011 Email Chris Anderson MDAQMD to Robert Sarvey

**Subject:** Blythe II Amendment

**Date:**

11/29/2011 4:46:20 PM Pacific Standard Time

**From:**

[canderson@mdaqmd.ca.gov](mailto:canderson@mdaqmd.ca.gov)

**To:**

[sarveybob@aol.com](mailto:sarveybob@aol.com)

*Sent from the Internet ([Details](#))*

Hello,

The MDAQMD did not receive the BEPII Amendment electronically in its entirety so I would like to direct you to visit the CEC site where the document is available for review. Below is the link to the site, the document is titled "Blythe Energy Project Phase II Amendment"

CEC website link; <http://www.energy.ca.gov/sitingcases/blythe2/compliance/index.html>

Should you have any questions please let me know.

Regards,

Chris Anderson

Air Quality Engineer

AVAQMD/MDAQMD

office: 760 245-1661 x1846

fax: 760 245-2022

email: [canderson@avaqmd.ca.gov](mailto:canderson@avaqmd.ca.gov)