

DOCKETED

Docket Number:	12-AFC-02C
Project Title:	Huntington Beach Energy Project - Compliance
TN #:	206806
Document Title:	Project Owner's Response to Staff's Issues Identification Report, Proposed Schedule, and Request for Committee Scheduling Order
Description:	N/A
Filer:	Kimberly Hellwig
Organization:	Stoel Rives LLP
Submitter Role:	Applicant
Submission Date:	12/1/2015 11:05:35 AM
Docketed Date:	12/1/2015



500 Capitol Mall, Suite 1600
Sacramento, CA 95814
main 916.447.0700
fax 916.447.4781
www.stoel.com

December 1, 2015

MELISSA A. FOSTER
Direct (916) 319-4673
melissa.foster@stoel.com

VIA ELECTRONIC FILING

The Honorable Andrew McAllister, Presiding Member
The Honorable Karen Douglas, Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Mr. John Heiser, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Ms. Susan Cochran, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

**Re: Huntington Beach Energy Project (12-AFC-2C)
Project Owner's Response to Staff's Issues Identification Report, Proposed
Schedule, and Request for Committee Scheduling Order**

Dear Commissioners, Hearing Officer Cochran, and Mr. Heiser:

Pursuant to the Committee's directive in the *Notice of Public Site Visit, Environmental Scoping Meeting, and Informational Hearing Committee Order* (TN #206730), AES Southland Development, LLC ("AES" or "Project Owner") submits the following proposed schedule. In addition, AES also provides herein comments to *Staff's Issues Identification and Scoping Report* ("IIR"), dated November 25, 2015 (TN #206778), and further requests the Committee issue a Scheduling Order based on the schedule proposed herein.

Comments on Staff's IIR

As evidenced by Staff's IIR, there is only one topic area that Staff identifies as a "major issue" - Air Quality. However, the only concern related to Air Quality addressed in Staff's IIR is the South Coast Air Quality Management District's schedule and a "current lack of completeness" as to the District's completeness determination, which Staff contends may cause some delay in the preparation of a Determination of Compliance ("Determination").



December 1, 2015

Page 2

It is the Project Owner's position that the lack of a completeness determination at this stage in the application process is not indicative of the District's current processing of the application. The District has been requesting information that goes well beyond what is necessary for a completeness determination and instead is seeking data for the analysis of the application. Thus, the lack of a completeness letter does not indicate that the District is not already working on processing of the application.

In addition, CEC Staff does not need to wait for the Air District to conduct their own analysis. The District's Determination and any conditions therein can be submitted into the record as late as the evidentiary hearing and incorporated by reference into the Staff Analysis.

Aside from Air Quality, Staff identifies three issue areas where - according to Staff and although no major issues have been identified - Staff believes that additional analysis of proposed changes will be required: Cultural Resources, Project Description, and Public Health. Since none of these issue areas have major issues, Project Owner does not see the need for a separate Preliminary Staff Assessment ("PSA") and Final Staff Assessment ("FSA"), nor is there a regulatory requirement in a PTA proceeding for both a PSA and FSA. The Staff Analysis public comment period (and District Determination comment period) will allow the Project Owner and any interested parties, including members of the public, ample time to adequately comment on the Staff Analysis and any proposed conditions contained therein.

Project Owner's Proposed Schedule

On October 27, 2015, Project Owner filed a *Proposed Schedule and Request for Scheduling Order* (TN# 206442). AES has considered Staff's proposed schedule (TN# 206778) and notes that there are opportunities to condense the schedule proposed by Staff. For example, as discussed above, Staff should issue a single Staff Analysis, rather than a PSA followed by a FSA. Again, as noted above, the comment periods on both the Staff Analysis and the District's Determination of Compliance will allow ample opportunity for the parties and the public to adequately comment on the respective analyses and proposed conditions contained therein. The proposed schedule set forth below supersedes Project Owner's previously docketed proposed schedule (TN# 206442).



December 1, 2015

Page 3

Project Owner's Proposed PTA Schedule

Activity	Date
Project Owner files Petition to Amend (PTA)	09/04/2015¹
Staff files Notice of Receipt	09/18/2015
CEC Assigns PTA Committee	10/14/2015
Staff files Data Requests	11/13/2015
Project Owner files Responses to Data Requests	12/04/2015²
Informational Hearing and Site Visit; Data Request Workshop	12/8/2015
Parties file Status Report #1	12/21/2015
South Coast Air Quality Management District issues Determination	TBD
Staff Analysis filed ³	01/29/2016
Parties file Status Report #2 ⁴	02/01/2016

¹ Uploaded to the CEC docket by the CEC Dockets Unit on September 9, 2015.

² Staff proposed December 3, 2015 as the date by which Project Owner shall provide data responses. Staff's Data Requests docketed on November 13, 2015 indicate that Project Owner shall provide data responses on or before December 14, 2015. Project Owner will provide responses to Staff's Data Requests, Set One, on or before December 4, 2015 but reserves the right to supplement or provide additional information responsive to Staff's requests on or before December 14, 2015, after discussions with Staff during the December 8, 2015 Data Request Workshop, Site Visit, and Informational Hearing.

³ The issuance of the Staff Analysis on the PTA should not depend on the timing of the issuance of the Determination of Compliance by the South Coast Air Quality Management District. Staff is able to conduct their own analysis of the amendment separate from the South Coast analysis and then incorporate the Determination (and any conditions contained therein) into the record upon receipt of the same.

⁴ Project Owner recommends that subsequent Status Reports be filed on or before the first business day of each month starting with February 1, 2016.



December 1, 2015

Page 4

Activity	Date
Parties file Comments on Staff Analysis and Opening Testimony	02/29/2016
Parties file Prehearing Conference Statement	03/07/2016
Prehearing Conference	03/10/2016
Evidentiary Hearing	03/17/2016
Committee issues Presiding Member's Proposed Decision (PMPD)	04/05/2016
Energy Commission Decision	05/11/2016

Request for Committee Scheduling Order

In an effort to expedite processing of the PTA, Project Owner reiterates its initial October 27, 2015 request (TN# 206442) that the Committee issue a Scheduling Order. Project Owner respectfully requests that the Scheduling Order incorporate the dates proposed above for the processing of the HBEP PTA.

Conclusion

AES appreciates Staff's efforts to review the PTA as expeditiously as possible, and your attention to developing a reasonable schedule. Given that the Final Decision is only one year old and site conditions have not changed since issuance of the Final Decision, AES is confident that the proposed schedule is reasonable and realistic. Thank you for your attention to this matter.

Respectfully submitted,

Melissa A. Foster

MAF:jmw