

## DOCKETED

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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
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PETITION TO AMEND THE  
*HUNTINGTON BEACH ENERGY PROJECT*

DOCKET No. 12-AFC-02C

## COMMITTEE SCHEDULING ORDER

### Background

On September 9, 2015, AES Southland, LLC, (project owner or Petitioner) submitted a Petition to Amend (Petition) to the California Energy Commission (Energy Commission) seeking permission to amend the certified Huntington Beach Energy Project (HBEP)<sup>1</sup>. The Petition proposes to reduce the nominal generation capacity of the project from 939 megawatts (MW) to 844 MW (644 MW generated from combined-cycle technology and 200 MW from simple-cycle technologies) (the Amended HBEP). The project site is located in the City of Huntington Beach, just north of the intersection of the Pacific Coast Highway and Newland Street. The project would be located entirely within the footprint of the existing AES Huntington Beach Generating Station, an operating power plant.

Further details of the proposed Amended HBEP are contained in the Petition, which may be viewed at:

<https://efiling.energy.ca.gov/getdocument.aspx?tn=206087>

### Summary

The Energy Commission, on October 14, 2015, designated Andrew McAllister, Commissioner and Presiding Member, and Karen Douglas, Commissioner and Associate Member, as the Committee<sup>2</sup> to conduct proceedings on the proposed amendment. The Committee held a Public Site Visit, Environmental Scoping Meeting and Informational Hearing on December 8, 2015, at the Hilton Waterfront Resort in

<sup>1</sup> The Energy Commission issued its Final Decision allowing Petitioner to construct and operate the HBEP on October 29, 2014 (the 2014 Decision). The 2014 Decision can be found at:

<https://efiling.energy.ca.gov/getdocument.aspx?tn=203309>

<sup>2</sup> Cal. Code Regs., tit. 20, §§ 1204.

Huntington Beach to discuss the proposed project modifications, the review process, and identification of issues that could affect the schedule. Pursuant to California Code of Regulations, title 20, section 1709.7(c), the attached Committee Schedule is based on discussions at the Informational Hearing between the Committee, Petitioner, Staff, South Coast Air Quality Management District (SCAQMD), and the City of Huntington Beach.

The Committee Schedule contains a list of events that must occur in order to complete the Energy Commission amendment process. The Committee encourages the parties to consider this schedule an outer boundary and make their best efforts to complete the milestones ahead of schedule. Some deadlines may be contingent upon reviews to be conducted by federal, state, and local agencies. The Petitioner must provide sufficient review time for the responsible agencies to meet the deadlines specified in the schedule.

Staff indicated at the Informational Hearing that they have preliminarily identified issues in the Petition related to the technical areas of Air Quality and Environmental Justice as requiring further analysis. SCAQMD's issuance of a Preliminary Determination of Compliance (PDOC) and Final Determination of Compliance (FDOC) are key to the complete analysis of the Amended HBEP's potential impacts. At the Informational Hearing, SCAQMD indicated the FDOC is expected within 180 days of having a complete air permit application from the Petitioner. SCAQMD found the Petitioner's application to be complete on December 18, 2015.<sup>3</sup>

In addition to the work of SCAQMD, discussions between the Petitioner and the City of Huntington Beach (the City) on several topics will also play a part in Staff's analysis. In the 2014 Decision, the analysis noted that the certified HBEP would not be consistent with the local building code as it was taller than the maximum allowed height. In approving the certified HBEP, the Energy Commission relied on a resolution from the City that found that, but for the exclusive jurisdiction of the Energy Commission, it would have granted the Petitioner a variance to the height restriction and allowed HBEP to be constructed.<sup>4</sup> The City's resolution also included acceptance of visual enhancements to the HBEP. The proposed amendments would alter the visual characteristics of the approved HBEP, including structures that are taller than those permitted by the 2014 Decision. The City indicated that it would be reviewing the resolution with an update likely in March or April 2016. The City also has a role in off-site traffic improvements needed for access to the project during construction.

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<sup>3</sup> TN 207088.

<sup>4</sup> The resolution can be found at: <https://efiling.energy.ca.gov/getdocument.aspx?tn=202084>

Additional questions were asked regarding the inclusion of clutches/synchronous condensers in the project design; these features may be part of the alternatives analysis of the project. Finally, the California Coastal Commission submitted comments during the proceedings leading up to the 2014 Decision; there was uncertainty about whether it would submit comments on the Petition.

Because of the timing uncertainties, the parties are on notice that the Committee may modify the Committee Schedule at any time upon either its own motion or that of a party, which may include bifurcation of any delayed subject areas to ensure the efficient processing of the Petition. If that Committee finds that some subject areas should be delayed, the non-affected subject areas are expected to adhere to the schedule attached to this Order.<sup>5</sup>

### **Status Reports and Conferences**

The attached Committee Schedule requires periodic status reports to be submitted by all parties for determining whether case development is progressing satisfactorily and to bring potential schedule delays or other relevant matters to the Committee's attention. The burden is on the Petitioner to produce the necessary data according to the schedule. If there are delays, the Committee may adopt a performance-based approach resulting in a commensurate lengthening of the schedule.

To facilitate the process, each party shall serve and file a status report on or before the 1<sup>st</sup> of each month, starting February 1, 2016. Parties must file (docket) and serve documents using the e-filing system on the California Energy Commission's website by clicking on the "Submit e-Filing" link in the "Compliance Proceeding" box at:

[http://www.energy.ca.gov/sitingcases/huntington\\_beach\\_energy/](http://www.energy.ca.gov/sitingcases/huntington_beach_energy/)

### **2014 Decision and Scope of Environmental Analysis**

As indicated at the Informational Hearing, the Committee intends to use the 2014 Decision as the starting point for the Amended HBEP environmental analysis. Under the California Environmental Quality Act (CEQA) Guidelines<sup>6</sup>, a supplement to the 2014 Decision is required only where:

1. Substantial changes are proposed in the project which will require major revisions of the 2014 Decision due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

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<sup>5</sup> Cal. Code Regs., tit. 20, § 1203, subd. (c).

<sup>6</sup> Cal. Code Regs., tit. 14, § 15162.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the 2014 Decision due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known in 2014, shows:
  - (A) The project will have one or more significant effects not discussed in the 2014 Decision;
  - (B) Significant effects previously examined will be substantially more severe than shown in the 2014 Decision;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the 2014 Decision would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Therefore, Staff is **ORDERED** to include in each topic area of the Staff Assessment (SA), a brief summary of the 2014 Decision, a discussion of whether or not supplementation of the 2014 Decision is necessary under section 15162, including the factual information that supports Staff's conclusion. If the Committee concludes that no supplementation is required, the Committee will rely upon the environmental analysis and conclusions of the 2014 Decision and will not re-analyze them. Should the proposed revised project result in significant impacts that cannot be avoided or mitigated, the Committee will make a recommendation about whether to override those impacts.

Although the Committee may not revisit the environmental analysis for some topics, the laws, ordinances, regulations, and standards (LORS) analysis is not subject to section 15162 and must be updated to the extent necessary to analyze the compliance of the amended project with LORS.

## Public Adviser and Public Participation

The Energy Commission invites members of the public and other interested parties to participate either on an informal basis or by intervening in the proceeding. Both types of participation allow written and oral comments. At the informal participation level, written and oral public comments are considered by the Committee and are part of the record, but are not part of the formal evidentiary record. Intervenors have the right to introduce evidence into the evidentiary record and cross-examine the other parties' witnesses.

The Energy Commission's Public Adviser's Office is available to provide the public with an understanding of the proceedings and to make recommendations for meaningful participation. For assistance, contact Alana Mathews, Public Adviser, at (916) 654-4489 or (800) 822-6228, or by e-mail at [publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov).

## Contact Information

Questions of a legal or procedural nature should be directed to Susan Cochran, Hearing Officer, by email at [susan.cochran@energy.ca.gov](mailto:susan.cochran@energy.ca.gov) or at (916) 654-3965.

Technical questions concerning the project should be addressed to John Heiser, Staff Project Manager, by email at [john.heiser@energy.ca.gov](mailto:john.heiser@energy.ca.gov) or at (916) 653-8236.

Media inquiries should be directed to the Media and Public Communications Office at (916) 654-4989 or by e-mail at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

Information concerning the status of the proposed amended project, as well as notices and other relevant documents, may be viewed on the Energy Commission's Internet web page at:

[http://www.energy.ca.gov/sitingcases/huntington\\_beach\\_energy/](http://www.energy.ca.gov/sitingcases/huntington_beach_energy/)

Dated: January 14, 2016, at Sacramento, California

*ORIGINAL SIGNED BY:*

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ANDREW McALLISTER  
Commissioner and Presiding Member  
Huntington Beach Energy Project  
Amendment Committee

*ORIGINAL SIGNED BY:*

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KAREN DOUGLAS  
Commissioner and Associate Member  
Huntington Beach Energy Project  
Amendment Committee

**HUNTINGTON BEACH ENERGY PROJECT AMENDMENT  
SCHEDULE**

<b>ACTIVITY</b>	<b>DUE DATE OR DATE COMPLETE</b>
Petition to Amend filed by Petitioner	9/10/2015
Staff files round 1 of Data Requests (DRs)	11/13/2015
Petitioner files Data Responses	12/4/2015
Data Response and Issue Resolution Workshop	12/8/2015
Informational Hearing, Scoping Meeting, and Site Visit in Huntington Beach	12/8/2015
Air District Determined Application Complete	12/18/2015
Status Report from all parties due on the 1st of each month	2/1/2016 and the 1st of each month thereafter
Status Conference	February 16, 2016 1:00 p.m. <sup>7</sup>
SCAQMD Issues Preliminary Determination of Compliance (PDOC)*	April 1, 2016
Status Conference	April 19, 2016 1:30 p.m.
Preliminary Staff Assessment Published	April 22, 2016
Staff holds PSA Workshop	No later than May 22, 2016
Public comment on the PSA closes	May 23, 2016
SCAQMD Issues Final Determination of Compliance (FDOC)*	June 1, 2016
Staff publishes Final Staff Assessment (FSA)	June 9, 2016
Last day to file Petition to Intervene <sup>8</sup>	Week of June 13, 2016
All Parties File Opening Testimony	Week of June 20, 2016

<sup>7</sup> Formal notice of status conferences will be provided at a later date. The dates and times are given for planning purposes by the parties.

<sup>8</sup> "A petition for intervention shall be filed no later than the deadline established by the presiding member, or if none is established, at least 30 days before the first evidentiary hearing in the proceeding." Cal. Code Regs., tit. 20, § 1211.7, subd. (b).

Status Conference	June 22, 2016 10:00 a.m.
All Parties File Rebuttal Testimony and Prehearing Conference Statements with Exhibit Lists	Week of June 27, 2016
Prehearing Conference (PHC)	Week of July 4, 2016
Evidentiary Hearings (EH)	Week of July 18, 2016
Committee Files Presiding Member's Proposed Decision (PMPD)	Late August 2016
Committee Conference on PMPD	Mid- September 2016
Close of Public Comment Period on PMPD	Late September 2016
Committee files Errata or Revised PMPD (if necessary)	Early October 2016
Energy Commission Final Decision	October 2016

\* The dates for SCAQMD's PDOC and FDOC may vary, which may affect the ultimate schedule.

**Note:** The Committee may modify the schedule at any time upon either its own motion or that of a party, which may include bifurcation of any delayed subject areas to ensure the efficient processing of the Petition. If the Committee finds that some subject areas should be delayed, the non-affected subject areas are expected to adhere to this schedule.