

DOCKETED

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Project Title:	Compliance - Application for Certification for the Gilroy Foods Cogeneration Project
TN #:	224879
Document Title:	Gilroy Cogen Project - Petition to Amend - NEED-3
Description:	Gilroy Cogeneration Project - Petition to Amend Condition of Certification NEED-3
Filer:	Mary Dyas
Organization:	Calpine Gilroy Cogen, L.P.
Submitter Role:	Applicant
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October 3, 2018

Ms. Mary Dyas
Compliance Project Manager
Siting, Transmission and
Environmental Protection (STEP) Division
California Energy Commission
1516 Ninth Street, MS-2000
Sacramento, CA 95814
E-mail: Mary.Dyas@energy.ca.gov

RE: Gilroy Cogeneration Project (84-AFC-04C): Petition for Modification to Remove Integrated Assessment of Need Condition of Certification-3

Dear Ms. Dyas:

In accordance with Section 1769 of the California Energy Commission's regulations, enclosed is a Petition for Modification to Remove Integrated Assessment of Need Condition of Certification-3 ("Petition") for the Gilroy Cogeneration Project. Calpine Gilroy Cogen, L.P. requests that the California Energy Commission consider approval of this Petition at the November 7, 2018 Business Meeting.

Please contact me or Barbara McBride (at (925) 570-0849 or Barbara.McBride@calpine.com) if you have any questions.

Sincerely,

/s/

Samantha G. Neumyer
Jeffery D. Harris
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Tel: (916) 447-2166
Email: sgn@eslawfirm.com

Gilroy Cogeneration Project

(84-AFC-04C)

Petition for Modification To Remove Integrated Assessment of Need Condition of Certification-3

Submitted by
Calpine Gilroy Cogen, L.P.



October 3, 2018

GILROY COGENERATION PROJECT

84-AFC-04C

PETITION FOR MODIFICATION

Pursuant to Section 1769 of the California Energy Commission's Siting Regulations, Calpine Gilroy Cogen, L.P. ("Project Owner") hereby submits this *Petition for Modification to Remove Integrated Assessment of Need Condition of Certification-3* (the "Petition") for the Gilroy Cogeneration Project ("GCP" or "Project"). The Project Owner requests that the California Energy Commission ("Commission") consider approval of this Petition at the November 7, 2018 Business Meeting.

As set forth below, the modification requested herein will simply remove a Condition associated with the former "Integrated Assessment of Need", Integrated Assessment of Need Condition of Certification-3 ("Need COC-3"), which is now obsolete and unnecessary due to changes in California law and regulation. The Integrated Assessment of Need was performed to protect an investor owned utility's ("IOU's") captive ratepayers from having to pay for facilities that were not needed to serve ratepayers. Senate Bill 110 (Stats. 1999, ch. 581) repealed former Public Resources Code Sections 25523 (f) and 25524 (a), removing the Integrated Assessment of Need provisions. Because Need COC-3 is no longer applicable or necessary to ensure GCP's compliance with LORS, this Petition requests removal of this outdated condition.

The proposed modification will not change the GCP's project design, operation, or performance. The removal of Need COC-3 will not result in any physical changes to the project, will not have a significant effect on the environment and will not affect the Project's ability to continue to comply with applicable laws, ordinances, regulations, or standards ("LORS"). Instead, the proposed modification will clarify that LORS do not require the facility to operate as a cogeneration facility when its contract with its thermal host expires at the end of 2018.

I. Section 1769(a)(1)(A): Description of the proposed modifications, including new language for affected conditions.

The Petition requests removal of Need COC-3 from the CEC's certification of the GCP. Need COC-3 provides that the GCP "shall be operated as a gas-fired cogeneration system in accordance with the definition of cogeneration contained in Public Resources Code Section 25134 (a) and (b) and Title 18 CFR 292.205(a)(1) and (2)(i)(B)."¹

No other conditions are affected by this Petition, and the Project Owner does not propose any new language for the affected condition.

¹ See, Commission Decision, Application for Certification for the Gilroy Foods Cogeneration Facility (Docket No. 84-AFC-4) (Nov. 13, 19985), p. 53.

II. Section 1769(a)(1)(B): Discussion of the necessity for the modifications.

The proposed modification is necessary because Need COC-3 is no longer consistent with LORS due to amendments to the Warren-Alquist Act that removed the requirement that the CEC conduct an Integrated Assessment of Need prior to certifying a facility. The proposed modification will remove the requirement that the facility produce thermal energy for a steam host in addition to electrical energy, which is consistent with the facility's intended operations in 2019 when its contract with its thermal host ends.

III. Section 1769(a)(1)(C): Discussion of whether the modification is based on information that was known by the petitioner during the certification proceeding.

The proposed modification is not based upon information that was known during the certification proceeding for the Project.

IV. Section 1769(a)(1)(D): Discussion of whether the modification is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision, and explanation of why the change should be permitted.

The proposed modification would remove the restriction that the facility operate as a gas-fired cogeneration system. This would affect the findings in the Final Decision relating to the need for the GCP, which was premised on the fact that the GCP was a gas-fired cogeneration facility within the meaning of Public Resources Code section 25134. This change should be permitted because subsequent to the permitting of the GCP, the Legislature amended the Warren-Alquist Act removing the requirement that the CEC conduct an Integrated Assessment of Need for Commission certified facilities. The proposed modification would clarify that the GCP may still be available to meet reliability and system needs without requiring that the facility also provide thermal energy to a steam host.

V. Section 1769(a)(1)(E): Analysis of the impacts the modification may have on the environment, if any, and proposed measures to mitigate any potentially significant adverse impacts.

The proposed modification would not have any impacts on the environment. There would be no physical changes to the facility. Existing equipment that is used to direct steam to the steam host would be closed, i.e., valves and other systems, to prevent steam flow to the thermal host at the end of the facility's service to such steam host.

Significantly, after the facility is no longer a cogeneration unit, the Project will continue to operate in compliance with its Bay Area Air Quality Management District's ("BAAQMD") issued air quality permits. Moreover, the project would continue to operate within all permitted limits. Noise levels and water use would not increase, there would be

no additional ground disturbance, and there would be no physical changes to the appearance of the Project.

VI. Section 1769(a)(1)(F): Discussion of the impact of the modification on the facility's ability to comply with applicable laws, ordinances, regulations, and standards.

The proposed modification will not impact the Project's ability to comply with all applicable LORS. The project is already designed and constructed to operate with and without a steam host receiving thermal energy. The project will continue to operate within existing, permitted parameters.

VII. Section 1769(a)(1)(G): Discussion of how the modification potentially affects the public.

The proposed modification will not adversely affect the public. No changes to permitted emissions limits are proposed. The modification will not negatively impact air quality or public health. Therefore, there are no potentially significant adverse effects on property owners that will result from the proposed modification.

VIII. Section 1769(a)(1)(H): List of property owners potentially affected by the modification, if any.

The proposed modification will have no potentially significant environmental impacts and will be in compliance with applicable LORS. There are no changes to the facility proposed, and no changes to permitted emissions limits are proposed. Therefore, no property owners will be affected by the modification, and a list is not necessary as part of this Petition.

IX. Section 1769(a)(1)(I): Discussion of the potential effect, if any, on nearby property owners, the public and the parties in the application proceeding.

The proposed modification will have no potentially significant environmental effects and will be in compliance with all applicable LORS. Therefore, the proposed changes will have no adverse impacts on property owners, the public, or any parties in the application proceeding.