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# PETITION TO AMEND

MALBURG GENERATING STATION (01-AFC-25C)

SITE DELINEATION

SUBMITTED TO: CALIFORNIA ENERGY COMMISSION

SUBMITTED BY: **BICENT (California) MALBURG LLC**

January 2019



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**FIGURES**

FIGURE 1 – SITE DELINEATION

## **Section 1 INTRODUCTION**

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### **1.1 INTRODUCTION TO PETITION**

Pursuant to Section 1769 of the California Energy Commission (Commission) regulations<sup>1</sup>, Bicent (California) Malburg LLC (Bicent), files this Petition To Amend (Petition) with the California Energy Commission (Commission) to modify the existing Malburg Generating Station (MGS) Final Decision.<sup>2</sup> The Commission certified the License for the MGS on May 23, 2003. The City of Vernon was the project owner at that time. The MGS was constructed and began commercial operations in October of 2005. On May 21, 2008, the Commission approved a Petition For Ownership Change to from the City of Vernon to Bicent<sup>3</sup>, which has owned and operated the MGS continuously thereafter.

This Petition requests the site boundary and conditions of certification be modified to reflect that Bicent does not control certain portions within the current site boundary and ancillary facilities, which are owned and operated by the City of Vernon. A strict reading of some of the conditions of certification may require Bicent to perform acts or prohibit acts of the City of Vernon on property that is solely controlled by the City of Vernon. Bicent files this Petition to clarify its obligations to ensure it can remain in compliance with the Commission Final Decision.

The remainder of this Section 1 describes the procedural background of the MGS and cites the authority for the Commission to process this Petition.

Section 2 of the Petition describes the specific modifications proposed for the MGS including an explanation of why the modification is being undertaken and its benefits.

Sections 3, 4, 5 and 6 contain analysis comparing the potential environmental impacts from the modifications to the potential environmental impacts of the MGS as approved in the Commission Final Decision. As discussed in these Sections, Bicent does not anticipate any significant environmental impacts from the proposed modifications.

Section 7 contains an analysis demonstrating that the modifications do not increase any potential effects on nearby property owners or the public.

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<sup>1</sup> Title 20 CCR Section 1769.

<sup>2</sup> References to the Commission Final Decision include all amendments approved after issuance and prior to the date of this Petition To Amend.

<sup>3</sup> TN 46462; Commission Order No: 08-521-1b.

## 1.2 FINAL DECISION BACKGROUND

The MGS was first proposed by the City of Vernon. The City of Vernon filed an Application For Certification (AFC) for the MGS with the Commission on December 21, 2001. The Commission issued its Final Decision approving the MGS on May 23, 2003 (“Final Decision”, 01-AFC-25).

## 1.3 PRIOR PETITIONS TO AMEND

On September 9, 2004 the City of Vernon filed a Petition To Amend the Commission Final Decision to add a temporary fabrication area to the MGS. The CEC filed a Notice of Insignificant Project Change on September 28, 2004<sup>4</sup> and filed a Notice of Exemption on October 22, 2004.<sup>5</sup> Without objection during the public comment period, the Petition was deemed approved by operation of law on October 13, 2004.

On December 21, 2007, The City of Vernon submitted a Petition To Amend to include new cold startup emission rates.<sup>6</sup> While this Petition was pending, Bicent acquired the MGS and filed a Petition For Ownership Change on April 10, 2008<sup>7</sup> which was approved by the Commission on May 21, 2008.<sup>8</sup> On August 13, 2008, the Commission approved the Petition to include new cold startup emission rates.<sup>9</sup>

On December 14, 2010, Bicent filed a Petition To Amend<sup>10</sup> that was withdrawn on September 11, 2012.<sup>11</sup>

Bicent filed a Petition To Amend on May 21, 2013 and sought to modify the number of allowable startup and shutdown events and the duration of startup.<sup>12</sup> The Commission approved the Petition on February 18, 2014 and docketed its Notice of Decision on the same day.<sup>13</sup>

Bicent filed a Petition to Amend on November 21, 2017 for a Turbine Upgrade Project. That Petition is still pending before the Commission awaiting the South Coast Air

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<sup>4</sup> TN 32395.

<sup>5</sup> TN 32580.

<sup>6</sup> TN 43854.

<sup>7</sup> TN 45880.

<sup>8</sup> TN 46462; Commission Order No: 08-521-1b.

<sup>9</sup> TN 47579; Commission Order No: 08-813-4.

<sup>10</sup> TN 59237.

<sup>11</sup> TN 67067.

<sup>12</sup> TN 70904.

<sup>13</sup> TN 201826.

Quality Management District's (SCAQMD) issuance of a Preliminary Determination of Compliance which is prerequisite to the Commission's evaluation.

#### **1.4 SUMMARY OF ENVIRONMENTAL IMPACTS**

As described in Sections 3 through 6 of this Petition, the modifications as proposed herein will not result in significant environmental impacts and will comply with all applicable LORS.

#### **1.5 CONSISTENCY OF PROJECT MODIFICATIONS WITH LICENSE**

As demonstrated in Sections 3 through 6 the proposed modifications proposed in this Petition do not undermine any of the findings and conclusions contained in the Final Decision.

## **Section 2 DESCRIPTION OF PROJECT AMENDMENT**

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### **2.1 OVERVIEW OF PROPOSED MODIFICATIONS**

Bicent (California) Malburg, LLC is proposing to modify the site boundary and several Conditions of Certification to reflect that Bicent does not control certain portions of the current site and ancillary facilities, which are owned and operated by the City of Vernon.

Specifically, Bicent requests the Commission include a new map constituting the site. Bicent proposes Figure 1 for this purpose. The area within the yellow boundary is the proposed MGS Site Delineation and includes all facilities and property over which Bicent has control. The area within the green boundary is the City of Vernon site which should be excluded from the MGS Site. The equipment within the blue boundary is shared between Bicent and the City of Vernon, but is proposed to be included within the MGS Site Delineation. The inclusion of this map and reference to it as constituting the site boundary will ensure that the Conditions of Certification apply to activities within the site boundary unless a condition specifically references an item outside the boundary.

Bicent also requests certain Conditions of Certification be deleted or amended as provided in Section 2.4 of this Petition.

### **2.2 NEED FOR THE MODIFICATIONS**

#### **2.2.1 Site Boundary Delineation**

The purpose of clarifying the site boundary in the Final Decision for the MGS is to ensure that Bicent and the Commission know the extent of the MGS site for purposes of determining compliance with the Conditions of Certification. The delineation is necessary at this time as there has been confusion with the application of some of the Conditions of Certification to facilities that are outside of areas over which Bicent controls.

When the original Application For Certification (AFC) was filed and approved and up until 2008, the project owner was the City of Vernon. The MGS was a Commission jurisdictional facility located entirely on City of Vernon property and adjacent to non-jurisdictional generating facilities also owned and operated by the City of Vernon. Approval of the Petition For Ownership transfer in 2008 did not include specific delineation of the site boundary to distinguish the facilities that remained in the control of the City of Vernon and those that would be transferred to Bicent.

A delineation of the site boundary in the Final Decision would rectify confusion over which specific facilities the conditions contained in Final Decision are applicable. Examples of areas where clarification is needed include:

- The natural gas pipeline which is entirely owned and operated by the City of Vernon and not Bicent.
- Station A which is entirely owned and operated by the City of Vernon and not Bicent.
- Landscaping which was installed by the City of Vernon as part of the MGS is not owned and maintained directly by the City of Vernon on City of Vernon property over which Bicent has not authority or control.

Clarification of the site boundary would eliminate these discrepancies and set a clear path for Bicent to comply with the Final Decision. Bicent proposes the Commission include Figure 1 into the Final Decision which demonstrates the site and all ancillary facilities over which Bicent has control. It also shows those areas under the sole control of City of Vernon. Where facilities are used jointly, Figure 1 also identifies who has ownership and control over the facility.

### **2.2.2 Conforming Modifications to Conditions of Certification**

Once the site boundary is clearly delineated, modification to the Conditions of Certification as outlined in Section 2.4 below is necessary to remove compliance obligations over facilities and property over which Bicent has no control. These areas include the natural gas pipeline, the landscaping, and Station A which are all owned, operated and maintained by the City of Vernon.

## **2.3 CURRENT PROJECT DESCRIPTION**

The MGS power plant is a natural gas fired, combined cycle electric power generating facility with two identical Siemens SGT800 combustion turbine generators (CT's), rated at 454.05 MMBtu/hr, two heat recovery steam generators (HRSG) with supplemental duct burners, each rated at 81.2 MMBtu/hr, one shared steam turbine generator (STG), a three (3) cell cooling tower and various support equipment. There is an emergency diesel-fired firewater pump at the site. The MGS currently operates under the existing SCAQMD Title V operating permit (November 2015, Facility ID 155474) included in Attachment 2 of the Appendix A.

The two CT's are equipped with dry low-NO<sub>x</sub> (DLN) combustors and selective catalyst reduction (SCR) and oxidizing catalysts. Each CT is equipped with an inlet air cooler to control inlet air temperature and enhance turbine performance during hot weather. The

cooled air is compressed prior to being fed to the combustor. The natural gas is mixed with the compressed air and the mixture is ignited in the combustor. The high pressure, high temperature gas produced in the combustion section is expanded through the turbine blades, which drive the turbine, the electric generator and the turbine compressor. The turbine exhaust gas passes through insulated ducts to a horizontal HRSG. Steam produced in the HRSG rotates the shared steam turbine generator. The net power output from the two (2) combustion turbines and the shared steam turbine generator is approximately 134 MW (net power output).

## **2.4 DETAILED DESCRIPTION OF PROPOSED MODIFICATIONS**

### **2.4.1 Site Boundary Delineation**

Figure 1 shows the revised site boundary proposed by Bicent to reflect the property over which it has control.

### **2.4.2 Conforming Modifications to Conditions of Certification**

Bicent proposes the following Conditions of Certification be deleted or modified as follows.

#### **2.4.2.1 Hazardous Materials Conditions of Certification HAZ-6 and HAZ-7**

Condition of Certification **HAZ-6** requires the project owner conduct a complete design review and inspection of the natural gas pipeline every 5 years. Condition of Certification **HAZ-7** further requires the project owner conduct an inspection of the natural gas pipeline after a seismic event. Bicent believes that the purpose of these conditions was to ensure the pipeline is operated safely over time.

As shown on Figure 1, Bicent neither owns nor controls the natural gas pipeline. It is owned and controlled solely by the City of Vernon, which is a public utility under California law. Bicent is simply a customer of the City of Vernon who delivers natural gas to the MGS.

Bicent has requested documentation from the City of Vernon to demonstrate that it complies with all laws, ordinances, regulations and standards (LORS) regarding maintenance and testing of the natural gas pipeline. Bicent believes the Commission should delete Conditions of Certification **HAZ-6** and **HAZ-7** from the MGS and instead rely on the legal obligation of City of Vernon to comply with applicable LORS to conclude that the requirements of maintenance and inspection of the natural gas pipeline will be performed as part of its duties as a public utility. This approach has

been consistently applied in many CEC Final Decisions since the original licensing proceedings for the MGS.

#### 2.4.2.2 Cultural Resources Condition of Certification **CUL-8**

Condition of Certification **CUL-8** requires the project owner to ensure that Station A is maintained to certain historical property standards. As shown on Figure 1, Station A is owned and entirely controlled by the City of Vernon. Therefore, Bicent has no ability to ensure Station A is maintained in any manner. It is important to note that the Final Decision for the original MGS found that the MGS would not create cultural resource impacts to Station A. Similarly, since Station A would not be within the MGS site and is owned and controlled by the City of Vernon, Bicent would have no obligation under LORS designed to protect historical resources to maintain Station A. Therefore, Bicent requests that Condition of Certification **CUL-8** be deleted.

#### 2.4.2.3 Visual Resources Conditions of Certifications **VIS-2** and **VIS-3**

Condition of Certification **VIS-2** requires the project owner to paint or treat the surfaces of all project structures and buildings visible to the public in a gray color to blend with the existing Station A building. A strict interpretation of this condition would require Bicent to repaint the entire MGS plant if the City of Vernon repaints Station A. It appears that Station A has been repainted by the City of Vernon since the time of the Final Decision. Therefore, Bicent requests Condition of Certification **VIS-2** be deleted.

Condition of Certification **VIS-3** requires the planting and maintenance of landscaping along the east side of the power plant site to enhance views of the power plant from Soto Street. The landscaping was installed by the City of Vernon prior to the transfer of ownership to Bicent. As shown on Figure 1, the area of the landscaping is no longer within the proposed boundary of the MGS. The City of Vernon currently maintains the landscaping, as evidenced by the replanting activities undertaken by the City of Vernon when it conducted roadway maintenance and construction activities along the eastern boundary of the original site. Since Bicent neither owns nor controls the landscaping area and the City of Vernon, who does own and control the area, has a history of maintaining it, Bicent requests Condition of Certification **VIS-3** be deleted. Compliance with landscaping related LORS for this portion of the original site would no longer apply to the MGS.

#### 2.4.2.4 Condition of Certification TSE-8

Condition of Certification **TSE-8** requires inspection of the transmission facilities during and after construction. It is unclear whether this condition imposes ongoing inspections over the transmission facilities. Bicent would like to discuss with the CEC Staff whether or not this condition was intended to impose ongoing inspections. If it does, Bicent would propose amending the term “transmission facilities” to be defined as only those that Bicent owns and controls. Bicent owns and controls transmission facilities between the generator step up transformers (GSUs) and the air disconnect switch. The City of Vernon owns and controls all transmission facilities beyond the air disconnect switch.

## **Section 3 ENGINEERING ASSESSMENT**

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This section contains an evaluation of the modification proposed in this Petition to determine if it would result in modification of the findings, conclusions or conditions of certification for each technical discipline included within the Engineering Assessment section of the Final Decision.

### **3.1 FACILITY DESIGN**

Modification of the site boundary would not change any component of the design of the facility, nor would result in any operational changes when compared to how the facility is currently operated.

### **3.2 POWER PLANT EFFICIENCY AND RELIABILITY**

This Petition does not affect the overall power plant reliability or efficiency of the MGS.

### **3.3 TRANSMISSION SYSTEM ENGINEERING**

Condition of Certification **TSE-8** requires inspection of the transmission facilities during and after construction. It is unclear whether this condition imposes ongoing inspections over the transmission facilities. Bicient would like to discuss with the CEC Staff whether or not this condition was intended to impose ongoing inspections. If it does, Bicient would propose amending the term “transmission facilities” to be defined as only those that Bicient owns and controls. Bicient owns and controls transmission facilities between the generator step up transformers (GSUs) and the air disconnect switch. The City of Vernon owns and controls all transmission facilities beyond the air disconnect switch.

## **Section 4 PUBLIC HEALTH AND SAFETY**

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This section contains an evaluation of the modifications proposed in this Petition to determine if they would result in modification to the findings, conclusions or conditions of certification for each technical discipline included within the Public Health and Safety section of the Final Decision.

### **4.1 AIR QUALITY, GREENHOUSE GASES AND PUBLIC HEALTH**

This Petition does not affect any emissions from the MGS and therefore does not result in modification to the findings, conclusions or conditions of certification in the areas of Air Quality, Greenhouse Gases, and Public Health.

### **4.2 WORKER SAFETY AND FIRE PROTECTION**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Worker Safety and Fire Protection section of the Final Decision.

### **4.3 HAZARDOUS MATERIALS MANAGEMENT**

As described in Section 2.4 of this Petition. Bicent has requested the deletion of Conditions of Certification **HAZ-6** and **HAZ-7**. The deletion of these conditions will not result in significant environmental impacts or non-compliance with LORS because if the Commission approves the change to the site boundary, the obligation for the natural gas pipeline will no longer be the responsibility of the owner of the MGS. The Commission can rely on the fact that the City of Vernon owns and controls the natural gas pipeline and as a public utility supplying gas to the MGS, has an obligation to comply with existing laws, ordinances, regulations and standards (LORS) related to the natural gas pipeline. Bicent has requested documentation from the City of Vernon demonstrating that it complies with those applicable LORS.

The deletion of these conditions would modify the findings of the Final Decision but not the ultimate conclusions. The Final Decision should be modified to rely on the existing LORS applicable to the City of Vernon to ensure the natural gas pipeline is operated safely and maintained, instead of Conditions of Certification **HAZ-6** and **HAZ-7**.

### **4.4 WASTE MANAGEMENT**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Waste Management section of the Final Decision.

## **Section 5 ENVIRONMENTAL ANALYSIS**

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This section contains an evaluation of the modification proposed in this Petition to determine if it would result in modification to any of the findings, conclusions or conditions of certification for each technical discipline included within the Environmental Assessment section of the Final Decision.

### **5.1 BIOLOGICAL RESOURCES**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Biological Resources section of the Final Decision because it does not propose any changes to operation of the MGS or any construction activities.

### **5.2 SOIL AND WATER RESOURCES**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Soil and Water Resources section of the Final Decision.

### **5.3 CULTURAL RESOURCES**

This Petition proposes to delete Condition of Certification **CUL-8**. This condition requires Bicent to:

ensure that Station A is maintained in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995) (36 CFR Part 68). The project owner shall provide a summary of maintenance activities completed within each calendar year.

Bicent does not own or control Station A. Station A is owned and controlled solely by the City of Vernon. It is important to note that the City of Vernon has the following applicable Cultural Resources LORS, with which it would comply.

**Sec. 24.78. Repair criteria for historic buildings or structures.**

- (a) Buildings or structures which are included on a national, state, or local register of historic places or which are qualifying structures within a recognized historic district, which have been damaged as a result of an "uncontrollable event," shall have an engineering evaluation performed.
- (b) The minimum criteria for repair shall be included in section 24.77, Repair criteria, with due consideration given to the historical rating and nature of the structures. Additional standards and criteria, as noted in Part 8, Title 24, California Code of Regulations, the State of California Historic Building Code, shall apply.

(c) Where conflicts exist between the standards contained herein and the State of California Historic Building Code, the Historic Building Code shall govern.

Therefore, the City of Vernon would comply with this code provision, which incorporates the State of California Historic Building Code, to any repairs made to Station A. The Commission should recognize this obligation is properly with the City of Vernon.

It is also important to note that the inclusion of Condition of Certification **CUL-8** was not intended to mitigate any potential significant impact to Station A, not to ensure compliance with LORS. Since Bicent neither owns nor controls Station A, it cannot modify Station A in any way. Only the City of Vernon can modify Station A and it is reasonable to assume the City would comply with its own LORS. Therefore, Condition of Certification **CUL-8** should be deleted.

#### **5.4 GEOLOGICAL AND PALEONTOLOGICAL RESOURCES**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Geological and Paleontological Resources section of the Final Decision because it does not propose any changes to operation of the MGS or any construction activities.

## **Section 6 LOCAL IMPACT ANALYSIS**

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This section contains an evaluation of the modifications proposed in this Petition to determine if it would result in modification to any findings, conclusions or conditions of certification for each technical discipline included within the Local Impact Assessment section of the Final Decision.

### **6.1 LAND USE**

The modification proposed in this Petition will not affect the findings and conclusions contained in the Land Use section of the Final Decision as it will not involve the use of new land areas.

### **6.2 NOISE AND VIBRATION**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Noise and Vibration section of the Final Decision because it does not propose any changes to operation of the MGS or any construction activities.

### **6.3 SOCIOECONOMICS**

The modification proposed in this Petition will not affect the findings and conclusions, nor require any modifications to the existing conditions of certification, contained in the Socioeconomic Resources section of the Final Decision as none of the modifications will burden existing public services.

### **6.4 TRAFFIC AND TRANSPORTATION**

This Petition does not affect any of the findings, conclusions, or conditions of certification in the Traffic and Transportation section of the Final Decision because it does not propose any changes to operation of the MGS or any construction activities.

### **6.5 VISUAL RESOURCES**

This Petition proposes deletion of Condition of Certification **VIS-3**, which required planting of landscaping to comply with City of Vernon landscaping requirements. It is also requires maintenance of that landscaping. This Petition proposes the site boundary be delineated in accordance with Figure 1 which shows that the landscaping that was installed is on City of Vernon owned and controlled property. Since Bicent has no authority over the property where the landscaping has been installed, Condition of Certification **VIS-3** should be deleted.

It should be noted that the City of Vernon has maintained and replanted this landscaping since its installation. There is no reason to believe that it will not continue to do so.

Condition of Certification **VIS-2** requires the project owner to paint or treat the surfaces of all project structures and buildings visible to the public in a gray color to blend with the existing Station A building. A strict interpretation of this condition would require Bicent to repaint the entire MGS plant if the City of Vernon repaints Station A. It appears that Station A has been repainted by the City of Vernon since the time of the Final Decision. Therefore, Bicent requests Condition of Certification **VIS-2** be deleted.

These deletions will not change any of the ultimate conclusions of the Final Decision.

## **Section 7 POTENTIAL EFFECTS ON PROPERTY OWNERS**

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The Commission's Power Plant Siting Regulations require a Petition For Amendment to include 1) a discussion of how the modification affects the public; 2) a list of property owners potentially affected by the modification; and 3) a discussion of the potential effect on nearby property owners, the public and the parties in the application proceedings.

As described in technical area evaluated in Sections 3 through 6 of this Petition, with implementation of the existing conditions of certification the impacts of the proposed modifications are less than significant and therefore would not affect the public differently than the identified in the Final Decision.

At this time Bicent is unaware of any changes in the surrounding property list used by the CEC for providing notice to its current Petition For Amendment filed in 2018.

