

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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November 4, 2013

Honorable Henry A. Waxman
Congress of the United States
House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

RE: AES Redondo Beach Energy Project

Dear Congressman Waxman:

Thank you for your letter regarding the California Energy Commission's review of the AES Redondo Beach Energy Project. The Energy Commission appreciates your interest in obtaining information that you and your constituents will need to make an informed decision about the proposed project. As one of the principal decision makers on the project, Chair Weisenmiller is unable to engage in communication about the project outside the hearing process; therefore, he asked me to respond to you on his behalf. He also asked me to docket your letter in this evidentiary proceeding.

You have requested that the Energy Commission reject the proposal to repower the power plant unless it determines that the facility is absolutely essential and there are no feasible alternatives. The Energy Commission is mandated by the Warren-Alquist Act to review and either approve or deny all applications for thermal power plants 50 megawatts or larger. Our authority is in lieu of any local or state review and permit. As part of the review, the Energy Commission conducts a robust environmental, engineering and public health and safety assessment of the proposed project and identifies and thoroughly examines alternatives to the proposed project. I would like to assure you that, as part of its consideration of AES's Application for Certification (AFC), the Energy Commission will consider alternatives to the proposed AES Redondo Beach Energy Project. Staff will obtain a considerable amount of information in multiple technical areas in order to develop a meaningful alternatives analysis. Staff is currently developing a series of data requests, the responses to which will enable staff to better understand the alternatives the applicant considered during the development of its AFC. In addition, Energy Commission staff will request additional information related to alternatives not included in the AFC. Also, pursuant to the California Environmental Quality Act, Energy Commission staff will prepare and review a "no project" *alternative*.

As part of its independent assessment of the project, the Energy Commission staff is reviewing the *Analysis of Local Capacity Requirements in the Western Los Angeles Basin Sub-Area* report prepared by Advanced Energy Solutions. However, the Energy Commission will not be able to determine if the project is needed. Prior to 1999, the Warren-Alquist Act required the Energy Commission to consider the need for new electricity generation when deciding whether to certify an application to site a power plant. However, statutory changes in 1996 began the process of restructuring the California electricity industry with the goal of creating a competitive electricity generation market, in which profit-seeking electricity generators would bear the risk of determining the need for additional electricity generation. Consistent with that goal, the Legislature, in 1999, passed SB 110 (Chapter 581, Statutes of 1999, Peace), which removed the requirement that the Energy Commission determine that a power plant is needed for California to have a reliable and efficient energy system.

In effect, this statutory change prohibits the Energy Commission from considering the need for a proposed power plant when considering whether or not to certify the power plant. In fact, since 2001, the Energy Commission has certified 13 power plants that subsequently were unable to obtain power purchase agreements. In effect, the market determined there was no need for the power plants and, as a result, none of these 13 power plants was constructed, despite each having received Energy Commission certification. The Energy Commission will certify a power plant that will not create significant unmitigated environmental impacts and will be constructed and operated pursuant to all applicable laws, ordinances, regulations and standards (LORS). In cases where a power plant has significant unmitigated environmental impacts and/or does not conform with applicable LORS, the Energy Commission must consider whether to override instances of significant unmitigated CEQA impacts or LORS inconsistency. Electric system reliability is one of the factors that the Energy Commission may consider. It informs both the LORS override question of whether "the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity" and the CEQA balancing of "specific overriding economic, legal, social, technological, or other benefits of the project" against its "significant effects on the environment." (Pub. Resources Code §§ 25525, 21081.)

The Energy Commission does not mean to imply that no State entity considers the need for additional electricity generation. Pursuant to statute (Chapter 835, Statutes of 2002), the California Public Utilities Commission (CPUC) biennially holds a Long Term Procurement Plan (LTPP) proceeding to review and potentially adopt ten-year procurement plans proposed by the state's investor owned utilities (IOUs). As part of the LTPP proceeding, the CPUC evaluates the IOUs' needs for new electricity generation resources and establishes rules for rate recovery of procurement transactions. In addition, the IOUs must submit to the CPUC contracts between the IOUs and electricity generators, such as the current contract between Southern California Edison and AES to supply electricity generated by the existing Redondo

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Beach Project. The CPUC must approve or reject such power purchase contracts, and the CPUC's review of these power purchase contracts necessarily entails consideration of need.

The Energy Commission committee of two commissioners assigned to oversee the Redondo Beach Energy Project proceeding and the Energy Commission staff held an Information Hearing, Scoping Meeting and site visit on October 1, 2013, in Redondo Beach. We received many comments from your constituents, both for and against the project. The Energy Commission looks forward to future meetings in Redondo Beach during this public review process of the AES Redondo Beach Project, as well as continued input from your office and your constituents, all of which will be included in the administrative record of the proceeding.

Please feel free to contact me at (916) 654-5100 or Roger.Johnson@energy.ca.gov, should you have additional questions.

Respectfully,

A handwritten signature in dark ink, appearing to read "Roger E. Johnson", with a stylized flourish extending to the right.

Roger E. Johnson
Deputy Director
Siting, Transmission and
Environmental Protection Division