

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION
OF THE
GILROY CITY LM6000 PHASE 1 PROJECT
BY CALPINE CORPORATION

DOCKET NO. 01-EP-8
APPLICATION FOUND COMPLETE
MAY 1, 2001
ORDER NO. 01-0521-01

Energy Commission Adoption Order

This Energy Commission Order adopts the Energy Commission's Decision (Decision) on the Gilroy City LM6000 Phase I Project. It incorporates the Presiding Member's Proposed Decision (PMPD) in the above-captioned matter and the Commission's modification made at the May 21, 2001, business meeting. The Decision is based upon the Governor's Executive Orders D-26-01 and D-28-01, the Application for Certification, the Staff Assessment appended to the Decision, the presentations made and comments received at the informational hearing held in Gilroy on May 10, 2001, written and oral comments from the public and from other agencies that have been received and placed in the docket (Docket No. 01-EP-8) and the comments received at the May 21, 2001, business meeting. The text of the attached Energy Commission Decision contains a summary of the proceedings and the rationale for the findings reached and conditions imposed.

This Order adopts by reference the text, Conditions of Certification, Compliance Verifications, and Appendices contained in the Decision. It also adopts specific requirements, which ensure that the proposed facility will be designed, sited, and operated in a manner to protect environmental quality, to assure public health and safety, and to operate in a safe and reliable manner.

FINDINGS

The Energy Commission hereby adopts the following findings in addition to those contained in the Decision and appended text:

1. On January 17, 2001, Governor Gray Davis proclaimed a State of Emergency to exist due to the energy shortage in the State of California. Subsequently, on

February 8, 2001 and on March 7, 2001, Governor Davis issued Executive Orders D-26-01 and D-28-01, requiring the Energy Commission to invoke the emergency siting procedures in Public Resources Code section 25705 to expedite the licensing of all new renewable and peaking power plants that could be available for service by July 31, 2001 and no later than September 30, 2001. In Executive Order D-26-01, Governor Davis made the findings that (1) "all reasonable conservation, allocation, and service restriction measures will not alleviate this energy supply emergency," and (2) "the energy supply emergency poses a threat to public health and safety and requires the siting of new power plants that can be on-line to avoid electricity supply shortages this summer and next." Pursuant to such findings, the Energy Commission is empowered to set aside its normal licensing procedures and to license facilities under "such terms and conditions as specified by the [C]ommission to protect the public interest." Executive Order D-28-01 provides that the Energy Commission and all other reviewing agencies shall have the authority to modify timelines for notices and hearings.

2. The Gilroy City LM6000 Phase I Project is a 135 MW nominal output simple cycle combustion turbine generating power plant that can be operational no later than September 30, 2001, to help avoid or reduce blackouts and other adverse consequences of the energy supply emergency in the state as defined in the Executive Orders.
3. To the extent feasible under the Energy Commission's emergency siting process, interested persons had an opportunity to submit written documents concerning the Gilroy City LM6000 Phase I Project and to make oral presentations at the public hearings in this proceeding.
4. Pursuant to Executive Orders D-26-01 and D-28-01, this project is exempt from the normal requirements of the California Environmental Quality Act under Public Resources Code section 21080(b)(4). Nevertheless, within the context of the need to expedite this Decision, the Energy Commission has developed Conditions of Certification designed to protect environmental quality and the public interest in accordance with Public Resources Code section 25705. The Conditions of Certification reflect a reasonable balance between protection of environmental quality and the need to alleviate the state's critical energy

shortage. To achieve this balance, the public interest is best served by the verification process as well as the monitoring conditions and the conditions of certification included (or incorporated by reference) in the Decision.

5. Implementation of the Conditions of Certification contained in this Decision and incorporated by reference from the Staff Assessment and Authority to Construct permit ensure that the project will be designed, sited, and operated in a manner that protects the public interest, assures protection of environmental quality, and ensures reasonably safe and reliable operation of the facility.
6. The Energy Commission finds that the project can be licensed as conditioned in this Decision in a manner that conforms to applicable local, regional, state and federal laws, ordinances; regulations, and standards. To the extent that there are adverse environmental impacts or conflicts with otherwise applicable laws, the benefits of the project outweigh the negative effects.

ORDER

Therefore, the Energy Commission orders the following:

1. The Application for Certification of the Gilroy City LM6000 Phase I Project, as described in this Decision is hereby approved and a certificate to construct and operate the project is hereby granted.
2. Energy Commission approval of the Application for Certification is subject to the timely performance of the Conditions of Certification and Compliance Verifications enumerated in the Decision, the Staff Assessment, Appendices, and the Authority to Construct permit. The Conditions and Compliance Verifications are integrated with this Decision and are not severable therefrom. While the project owner may delegate the performance of a Condition or Verification, the duty to ensure adequate performance of a Condition or Verification may not be delegated.
3. Because this Decision is made pursuant to emergency Executive Orders, there shall be no reconsideration process pursuant to Public Resources Code section 25530 and the Decision shall be considered final on the day it is adopted.

4. For purposes of judicial review pursuant to Public Resources Code section 25531, this Decision is final immediately.
5. The Energy Commission hereby adopts the Conditions of Certification, Compliance Verifications, and associated dispute resolution procedures as part of this Decision in order to implement the compliance monitoring program required by Public Resources Code section 25532. All conditions in this Decision take effect immediately upon adoption and apply to all construction and site preparation activities including, but not limited to, ground disturbance, site preparation, and permanent structure construction.
6. The Executive Director of the Energy Commission shall transmit a copy of this Decision and appropriate accompanying documents as provided by Public Resources Code section 25537 and California Code of Regulations, Title 20, section 1768.

Dated on May 21, 2001, at Sacramento, California

WILLIAM J. KEESE
Chairman

MICHAL C. MOORE
Commissioner

ROBERT A. LAURIE
Commissioner

ROBERT PERNELL
Commissioner

(Absent)
ARTHUR H. ROSENFELD
Commissioner