

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

**APPLICATION FOR CERTIFICATION  
OF THE  
INDIGO ENERGY FACILITY  
BY WILDFLOWER ENERGY LP**

**DOCKET No. 01-EP-2**  
APPLICATION FILED  
MARCH 16, 2001

**DECISION**

**Executive Orders**

On January 17, 2001, the Governor proclaimed a State of Emergency due to constraints on electricity supplies in California. As a result, the Governor issued Executive Orders D-22-01, D-24-01, D-25-01, D-26-01, and D-28-01 to expedite the permitting of peaking and renewable power plants that can be on-line by September 30, 2001. Additionally, projects below 50 megawatts (MW) that have power purchase agreements with the California Independent System Operator (Cal-ISO) may also apply to be permitted by the Energy Commission under the emergency siting process. These emergency projects are exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080(b)(4). Since the Governor has declared a state of emergency, the Energy Commission may authorize the construction and use of generating facilities under terms and conditions designed to protect the public interest. (Pub. Resources Code section 25705.)

**Project Description**

Wildflower Energy LP (Applicant), a wholly owned subsidiary of InterGen, will develop the Indigo Energy Facility (Indigo), a nominally rated 135- MW, simple-cycle, natural gas-fired power plant to be located at a site approximately one-half mile northwest of the Indian Avenue interchange with Interstate 10 (I-10) in the City of Palm Springs in Riverside County.

Indigo will occupy approximately 10 acres and will consist of modular components. The project site is vacant and is located in an area designated for energy and industrial uses. Windmill farms are adjacent to the project site. Wintec Energy, LTD, a wind energy developer, owns the parcel as well as others in the area. Applicant has signed a binding Agreement to lease the site for 10 years, with options to extend the term of the lease for up to 30 years. Applicant is also engaged in negotiations to purchase the property.

Indigo will have three 105-foot stacks and turbine compressor vents approximately half the height of nearby windmills. No other facility structure would be taller than 45 feet. It will have three GE LM6000 Enhanced Sprint gas turbine engines, each nominally rated at 45 MW. It will utilize Selective Catalytic Reduction (SCR) and carbon monoxide (CO) oxidation catalyst systems to control emissions of oxides of nitrogen (NO<sub>x</sub>) and CO. Aqueous ammonia is necessary for the SCR system and will be stored on-site in one 10,000-gallon tank with secondary steel containment.

The Indigo site is located approximately 1,600 feet east of Southern California Edison's (SCE) 115-kilovolt (kV) transmission line that runs between the Garnet and Devers Substations, which line and substations are controlled by Cal-ISO. Connection to this line will require a new wood-pole transmission line. Each wood pole will be 65 to 70 feet in height.

Indigo will include a new 24-inch natural gas supply line in order to connect to an existing 30-inch Southern California Gas Company (SoCalGas) main line south of Interstate Highway 10 (I-10). It will utilize an estimated 1,500 million Btus per hour (mmbtu/hr) of pipeline quality natural gas.

Indigo will use approximately 240 gallons per minute (gpm) of water at peak usage, which will be used for evaporative inlet air cooling. Applicant expects to obtain water from the Mission Springs Water District (MSWD), which has a 12-inch water main that runs along the south side of the project site. A 90-foot water line will be required to bring the water into the facility. Wastewater from the project will be routed to an oil-water separator and discharged into the local storm drainage system.

Indigo is a simple-cycle project that will operate during periods of high demand and Applicant requests certification for the life of the project. Applicant expects

contruction to take two to three months, assuming timely completion of the natural gas and transmission interconnections. Indigo is expected to be in operation by July 5, 2001. Construction will begin upon issuance of the Authority to Construct (ATC) permit by the South Coast Air Quality Management District (Air District). Applicant stated at the Energy Commission hearing held on April 4, 2001, that the Air District may allow construction to commence prior to the issuance of the ATC.

Indigo is currently under contract to supply capacity and energy to the Cal-ISO pursuant to a Summer Reliability Agreement (SRA) executed with Cal-ISO on November 28, 2000. The SRA requires the plant to be on-line for summer 2001 and allows Cal-ISO to dispatch the facility from June to October for up to 500 hours for years 2001, 2002, and 2003. Through its affiliate Coral Energy LLC, Applicant is currently renegotiating its Cal-ISO SRA with the California Department of Water Resources (DWR). Coral Energy LLC is owned by InterGen (30%) and Shell (70%).

### **Public Hearing**

On March 27, 2001, in the City of Palm Springs, Energy Commission Chairman William J. Keese, the Energy Commissioner designated to conduct proceedings on this proposal, held a public site visit and informational hearing to discuss the project with governmental agencies, community organizations, and members of the public. At the hearing, Applicant described the project and Energy Commission staff explained the Energy Commission s expedited review process. Local residents and other members of the public presented comments and asked questions about the project.

Representatives of the following agencies attended and participated at the hearing: William G. Kleindienst, Mayor, City of Palm Springs; Matt Weyuker, Mayor, City of Desert Hot Springs; John Yee, Air District; Refugio Joe Bocanegra, General manager, MSWD.

## **Issues of Concern**

The following issues were identified at the hearing and during the review and consideration period that followed. At the conclusion of the hearing, Applicant was asked to address issues identified at the hearing, numbers 1 through 3 below. Applicant submitted its response on March 29, 2001, via electronic mail.

1. Timely completion of the transmission interconnection.

Applicant will connect to an SCE-owned 115-kV transmission line controlled by Cal-ISO. At the time of the hearing, Applicant had not entered into a final interconnection agreement with SCE. Applicant stated in its Application the project could be delayed for up to seven months in the event of delay in completion of the gas and electric interconnection.

In its March 29, 2001, submission, Applicant stated that it is working with SCE and plans to have the project on-line by the first week of July. Applicant received the preliminary System Impact Studies on March 29, 2001, and is entering into an expedited service agreement with SCE.

2. Timely completion of the natural gas interconnection.

Applicant will receive natural gas from SoCalGas through construction of a new 24-inch pipeline extension from existing main pipelines, which are approximately 900 feet away. As noted above, Applicant stated that up to a seven-month delay was possible if fuel interconnections were delayed. Additionally, the interconnection would require Department of Transportation ( Caltrans ) permission for planned excavation under I-10.

In its March 29, 2001, submission, Applicant stated that SoCalGas has completed base mapping, soil borings and potholing tests for the I-10

underground crossing, land research studies for the potential route area, basic design and material lists for the pipeline construction including tie-in details, preliminary design and costing of the meter set assembly, service line sizing, and selection of preferred metering location at Indigo site. Applicant reports that it is working with SoCalGas to confirm the final the route alignment, which it believes will be complete the week of April 2, 2001. SoCalGas will then submit the permit package to Caltrans. Applicant further reports that Caltrans has committed to completing its permit review within two weeks. Condition **TRANS-2**, included in the Staff Assessment, requires Applicant to obtain necessary encroachment permits from Caltrans.

3. Availability of water for the project.

Applicant asserts in the Application that it will obtain water to meet project needs from MSWD. However, at the hearing, representatives of the MSWD objected to the project on the grounds that the project size and scope were greater than first disclosed. Mr. Bocanegra stated that MWSD would be unable to provide the required water supply without adversely affecting present customers or without hampering future residential growth. He stated that water would have to be imported to meet project needs.

Applicant agreed to meet with MSWD to attempt to resolve water supply issues. In its March 29, 2001, submission, Applicant stated that it met with MSWD on March 29, 2001, to negotiate water supply service and that it will continue to work with MSWD to obtain an amended Will-Serve Letter regarding project water supply needs.

Applicant indicated that it was also taking steps to obtain an alternative water supply by utilizing the groundwater directly underneath the proposed site. It has obtained a permit, dated March 29, 2001, from Riverside County to drill a water well at the project site. Applicant also stated that the water quality at the project site area is adequate.

On March 31, 2001, Energy Commission staff issued its Staff Assessment. Staff proposed a condition of certification that would require modeling of the project's impact on the local aquifer before an on-site well could be drilled to supply the project. If Applicant is unable to obtain an agreement from MSWD to supply the project with water, Staff will review the potential impact that project water use will have on the local aquifer, and will require appropriate mitigation to avoid significant impacts.

On April 2, 2001, MSWD submitted a Will-Serve Letter to the Applicant indicating that it is prepared to provide water service to the project at a rate not to exceed 240 gpm for 328.5 days each year subject to conditions and reservations. In the alternative, MSWD submitted a separate letter to the Energy Commission on April 2, 2001, specifying mitigation measures to be imposed on the Applicant in the event that the Energy Commission approves the Applicant's proposal to drill wells at the site. At the Energy Commission hearing on April 4, 2001, Staff indicated that it was likely a water supply agreement between MSWD and Applicant would be finalized and that Condition **SOIL & WATER-7** requires the project owner to implement an approved mitigation plan if the well-drilling alternative is chosen.

#### 4. Status of the Air District permit application.

As set forth in the Public Comment section, several speakers at the hearing expressed concern regarding air emissions.

On February 23, 2001, Applicant filed an application with the Air District to obtain the required ATC permit. The ATC application was amended on March 7, 2001. Applicant asserted, and its representatives stated at the public hearing, that project emissions would not exceed the levels determined by the Air District to pose significant health risk. The project will nevertheless exceed emissions

offset thresholds established by the Air District and Applicant is required to obtain the necessary emission reduction credits.

The Air District has preliminarily approved the ATC application. Such approval is contained in its Notice of Intent to Issue Permit published on March 28, 2001. The Air District states in its Notice that emission offsets are required for nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), CO, and particulate matter less than 10 microns (PM<sub>10</sub>). The Notice triggers a 30-day public review and comment period before any final action on the application is taken by the Air District.

Applicant expects to have the necessary emission reduction credits to offset the emissions in question, by utilizing temporary offsets held in the statewide Emission Reduction Credit Bank established by the California Air Resources Board (CARB), by utilizing priority reserve credits that may become available from the Air District, or by purchasing offsets in the open market, if necessary.

### **Public Comment**

The City of Palm Springs, through its Mayor, William G. Kleindienst, expressed support for the project. The city adopted Resolution No. 20014 and approved Urgency Ordinance No. 1593 to facilitate project compliance with the City's zoning ordinance. (Tr. at p. 52; Staff Assessment at p. 10.)

Michael Bracken, representing the Coachella Valley Economic Partnership, also spoke in support of the project and submitted 14 letters in support of the project from local business and community leaders.

Four other individuals, Building Industry Association representative Patrick Swarthout, power plant developer Henry Orlosky, local business owner and resident Miles Barrett, and Indigo site owner Fred Noble, spoke in support of the project. David Pendergrass submitted a written comment in favor of the project.

While not opposed to the project, Desert Hot Springs Mayor Matt Weyuker expressed concern regarding the use of water, air emissions, and the impact of construction activity on local traffic. Palm Springs resident Tony Hoetker expressed similar concerns regarding the plant's emissions.

Desert Hot Springs resident William Thomas also expressed concern about the impact of emissions, providing a list of chemicals likely to flow from the plant. He urged the Energy Commission to consider alternative energy sources, such as photovoltaic energy systems, commonly known as solar cells, and natural gas fuel cells. Chairman Keese responded that while the Energy Commission is exploring the potential of these technologies, they are not viable alternatives to the proposed project.

As set forth above, the Air District representatives addressed the emission concerns and will impose conditions to ensure compliance with Air District rules and requirements.

As noted above, MSWD objected to the project on the basis of its anticipated impact on the area's water supply. However, Energy Commission staff is proposing conditions of certification to ensure that any adverse impacts to the water supply is mitigated.

### **Staff Assessment**

On March 31, 2001, Energy Commission staff issued its Staff Assessment, which is attached hereto and incorporated herein by reference. Staff conducted a fatal flaw analysis and found no areas of major concern related to the project.

The conditions contained in the Staff Assessment are hereby adopted as the Conditions of Certification for the Indigo project. Three of the conditions were modified at the April 4, 2001, Energy Commission business meeting as follows:

**LAND-1:** With respect to the public art fees requirement, the condition is amended to read as follows: Unless waived by the City of Palm Springs, the proposed project should contribute public art or fees



in-lieu of the art at the rate of 0.5% of the Uniform Building Code valuation table.

**SOIL & WATER-4:** The condition shall be amended to read as follows: If required, prior to ground disturbance, the project owner shall submit to the CPM a copy of a valid permit or agreement from the appropriate approving agency for wastewater discharge.

**SOIL & WATER-7:** \_The condition shall be amended to read as follows: Prior to the initiation of drilling an on-site well, except for test wells, the project owner shall submit information on the project s projected annual water use on the local aquifer, and a plan to mitigate excess draw down of the aquifer for CPM review and approval.

#### **Authority to Construct Permit**

As noted above, on March 8, 2001, Applicant filed an application with the Air District for an ATC permit. The ATC permit is a requirement of the U.S. Environmental Protection Agency (USEPA). The application is subject to a 30-day notice and public review and comment period that commenced on March 28, 2001. The ATC permit shall become effective on the date designated by the Air District, including any modifications approved during the comment period. The conditions and any modifications thereto contained in the ATC permit shall be incorporated herein by reference on the effective date of the ATC permit.

#### **Term of Certification, Permit Verification, and Amendment**

Indigo Energy Facility shall be certified for the life of the project if at the expiration of its Summer Reliability Agreement (SRA) with the California Independent System Operator (Cal-ISO) or its power purchase agreement with the California Department of Water Resources (DWR), the project owner can verify that the project meets the following continuation criteria. The certification shall expire if the continuation criteria are not met. Within 30 days of executing a power purchase agreement with DWR, the Applicant shall notify the Energy

Commission's Compliance Project Manager (CPM) regarding the duration of the agreement with DWR.

At least six months prior to the expiration of its SRA with Cal-ISO or its power purchase agreement with the DWR, the project owner shall provide verification that the project will meet the following criteria in order to continue the permit through the life of the project:

1. The project is permanent, rather than temporary or mobile in nature.
2. The project owner demonstrates site control.
3. The project owner has secured permanent emission reduction credits (ERCs) approved by the South Coast Air Quality Management District (Air District) and the California Air Resources Control Board (CARB) to fully offset project emissions for its projected run hours prior to expiration of the temporary ERCs obtained from CARB.
4. The project is in current compliance with all Energy Commission permit conditions specified in the Decision.
5. The project is in current compliance with all conditions contained in the Authority to Construct permit from the Air District.
6. The project meets all Best Available Control Technology (BACT) requirements under Air District rules and CARB requirements.

### **Additional Conditions**

**TSE-2:** Within 15 days of the issuance of this certification, the Applicant shall provide the Energy Commission's CPM with a schedule for completion of the transmission and fuel interconnection agreements and construction of the natural gas pipeline and electrical transmission line.

**Compliance Reporting:** Applicant shall submit status reports to the Energy Commission's CPM every two weeks beginning on April 18, 2001, indicating its progress in meeting milestones for procuring necessary project components and all required approvals for construction and operation of the facility by the expected on-line

date of July 5, 2001. Progress reports shall be required until Indigo is on-line.

### **Monitoring Conditions**

The project owner shall comply with the following monitoring conditions in addition to the Permit Verification process contained in this Decision and in addition to the General Compliance Conditions delineated in the Staff Assessment and incorporated herein by reference:

**Start of Operations:** Indigo Energy Facility (Indigo) shall be on-line by the expected date of operation of July 5, 2001 or the earliest possible date thereafter, but no later than September 30, 2001. If Indigo is not operational by September 30, 2001, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have Indigo in operation by September 30, 2001, the Energy Commission will set a specific date by which Indigo must be brought on-line as a condition precedent to continue the certification.

**BACT Standards:** Operation of Indigo shall be in compliance with all Best Available Control Technology (BACT) standards imposed by the Air District in its Authority to Construct permit. Failure to meet these standards will result in a finding that Indigo is out of compliance with the certification.

**Three-Year Review:** No later than 15 days after completion of the first three years in operation, Indigo shall submit to the Energy Commission a report of operations that includes a review of Indigo's compliance with the terms and conditions of certification, the number of hours in operation, and the demand for power from the facility during the three year period.

## **FINDINGS AND CONCLUSIONS**

1. There is an energy supply emergency in California.
2. All reasonable conservation, allocation, and service restriction measures may not alleviate the energy supply emergency.
3. Public Resource Code section 21080(b)(4) exempts emergency projects from the requirements of the California Environmental Quality Act.
4. Executive Order D-28-01 states that [a]ll proposals processed pursuant to Public Resources Code section 25705 and Executive Order D-26-01 or this order [D-28-01] shall be considered emergency projects under Public Resources Code section 21080(b)(4).
5. Indigo Energy Facility is a simple-cycle facility that will operate during periods of high demand.
6. Indigo Energy Facility has been processed pursuant to Public Resource Code section 25705 and Executive Orders D-26-01 and D-28-01.
7. Pursuant to the Executive Orders cited above, Indigo Energy Facility is expected to be on-line by July 5, 2001 and no later than September 30, 2001, in order to help reduce blackouts and other adverse consequences of the energy supply emergency in the state.
8. In order for the Indigo Energy Facility to be on-line by July 5, 2001, and no later than September 30, 2001, it is necessary to substantially reduce the time available to analyze the project.
9. To the greatest extent feasible under the circumstances, the terms and conditions specified in this Decision (1) provide for construction and operation that does not threaten the public health and safety, (2) provide for reliable operation, and (3) reduce and eliminate significant adverse environmental impacts.

## **COMMISSION APPROVAL**

Implementation of the Conditions of Certification contained in the Staff Assessment, the Authority to Construct Permit, and the additional conditions described above as well as the mitigation identified in the application and contained in the record ensure that the proposed facility will be designed, sited, and operated in a safe and reliable manner to protect the public interest.

Therefore, the Energy Commission adopts the Proposed Decision and certifies the Indigo Energy Facility as described in this proceeding.