

DOCKETED

Docket Number:	21-AFC-02
Project Title:	Willow Rock Energy Storage Center
TN #:	245938
Document Title:	CEC Agreement with Willow Rock
Description:	N/A
Filer:	Patricia Carlos
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	9/9/2022 3:26:37 PM
Docketed Date:	9/9/2022

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

***Application for Certification for the
Willow Rock Energy Storage Center***

Docket No.: 21-AFC-02

**AGREEMENT BETWEEN CALIFORNIA ENERGY COMMISSION STAFF AND
WILLOW ROCK ENERGY CENTER TO EXTEND TIME FOR FILING PETITION TO
COMPEL DISCOVERY [Cal. Code Regs., tit. 20, §1716, subd. (f).]**

I. PARTIES:

This Agreement is made and entered into between the California Energy Commission Staff (CEC staff) and Willow Rock Energy Storage Center (“Parties”).

II. PROCEDURAL BACKGROUND:

On or about December 1-2, 2021, GEM A-CAES LLC (applicant) filed an Application for Certification (AFC) with the CEC to construct and operate an energy storage facility in unincorporated Kern County. On July 13, 2022, the Commission adopted the executive director’s recommendation filed July 5, 2022, and made its finding and order that the AFC filing was complete, and the 12-month timeline to reach a decision on the AFC had commenced. (Pub. Resources Code, § 25540.6.)

On July 26, 2022, CEC staff filed Data Requests Set 1 seeking discovery of technical information relevant to the project and site. [TN 244203.] On August 15, 2022, applicant filed its “Notice Pursuant to 20 C.C.R. § 1716(f) Regarding Staff’s Data Requests Set 1,” requesting additional time to respond to specific data requests and objecting to other specific data requests. [TN 245050.]

III. RELEVANT LAW:

The procedural requirements for obtaining information (discovery) under the Warren Alquist Act, are set forth in California Code of Regulations, title 20, section 1716. These provisions provide, in relevant part:

The executive director or the chief counsel shall have authority to request or otherwise obtain from the applicant such information as is necessary for a complete staff analysis of the notice or application.” (Cal. Code Regs., tit. 20, §1716, subd. (a).)

Any party requested to provide information pursuant to this section shall, within 20 days of receiving the request, notify the requesting party and the committee in writing if it is unable to provide or objects to providing the information requested of it... The dates specified in this section may be changed by mutual agreement of the parties or by committee order. (Cal. Code Regs., tit. 20, §1716, subd. (f).)

If the requesting party or agency is unable to obtain information as provided in this section, such party or agency may petition the committee for an order directing the responding party to supply such information. A party petitioning the committee for an order to provide information must do so within either 30 days of being informed in writing by the responding party that such information will not be provided or within 30 days of the date the information was provided or was due. The committee may set a hearing to consider argument on the petition, and shall, within 30 days of the filing of the petition, either grant or deny the petition, in whole or in part. (Cal. Code Regs., tit. 20, §1716, subd. (g).)

IV. PURPOSE:

On September 6, 2022, attorneys for CEC and applicant met to clarify applicant's objections to staff's data requests. The parties agreed that the discovery issues cannot be resolved without input from technical staff of both parties and other stakeholders. The parties also agree that a workshop will provide an opportunity to resolve as many issues as possible prior to filing a petition to compel discovery. The purpose of this Agreement is to extend the timeline for CEC Staff to "petition the committee for an order directing the responding party to supply [the requested] information." (Cal. Code Regs., tit. 20, §1716, subd. (f).)

V. NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

A. Agreement to Extend Date for CEC Staff to File Petition to Compel

Discovery: A meet and confer with counsel for both parties on September 6, 2022, clarified but did not resolve applicant's objections to staff's Data Requests Set 1. In compliance with the Committee's August 26, 2022 Scheduling Order [TN 245754] directing the parties to "use best efforts to first meet and confer" to resolve disputes prior to filing any motions for extensions or relief, a workshop will be necessary to further discuss applicant's objections to staff's Data Requests Set 1.

The deadline for CEC staff to file a petition with the committee for an order compelling discovery of the requested information is September 14, 2022. The parties will need sufficient time to notice and hold one or more public workshops. Therefore, pursuant to California Code of Regulations, title 20, section 1716, subdivision (f), the parties mutually agree to extend the date for filing a motion to compel discovery of information requested in staff's Data Requests Set 1, to two weeks (14 calendar days) after the parties file their joint statement that describes the outcome of the workshop(s), including any agreements reached as ordered in Item 4, page 4 of the Committee's August 26, 2022 Scheduling Order.

B. Execution in Counterpart: This Agreement shall be effective when at least one counterpart has been executed by each Party (the “effective date”). scanned or emailed signatures shall constitute original signatures binding on the signing Party.

RESPECTFULLY SUBMITTED,

On Behalf of California Energy Commission Staff:

Dated: September 9, 2022

Kari Anderson

Kari Anderson, Senior Staff Counsel
Jared Babula, Senior Staff Counsel
Dian Vorters, Assistant Chief Counsel
California Energy Commission

On Behalf of Willow Rock Energy Storage Center:

Dated: September 9, 2022

Samantha Neumyer

Samantha Neumyer
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