

DOCKETED

Docket Number:	08-AFC-04C
Project Title:	Orange Grove Energy Project - Compliance
TN #:	246135
Document Title:	Order Approving Settlement
Description:	Order No: 22-0914-05
Filer:	Liza Lopez
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	9/16/2022 11:23:00 AM
Docketed Date:	9/16/2022

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

Orange Grove Energy Center

Docket No.: 08-AFC-04C

Order Approving Settlement

I. BACKGROUND

Orange Grove Energy, LP (OGE) owns and operates the Orange Grove Energy Center (OGEC or “facility”) licensed by the California Energy Commission (CEC) and located in San Diego County, California. The Final Commission Decision (Commission Decision) was issued on April 8, 2009, certifying the power project (Docket No. 08-AFC-04C). The Commission Decision governs the construction, operation, and decommissioning of the OGEC.

II. STAFF RECOMMENDATION

CEC Staff investigated an alleged failure to conduct fire pump testing and report this change in facility operation at the OGEC. The investigation included an October 23, 2018 visit to the OGEC, calls and discussions with OGEC personnel and a review of all relevant documents. On January 12, 2021, CEC Staff sent OGEC a Notice of Violation alleging noncompliance with its fire pump testing provisions, which appear at page 62 of the Commission Decision. Staff’s review also later determined that the facility had not reported or sought CEC’s approval for this change in operation as required by its compliance conditions, which appear at page 50 of the Commission Decision.

OGE has worked diligently with CEC Staff since the October 23, 2018 site visit and cooperated with the investigation. OGE’s cooperation and other efforts saved the CEC time and resources in further investigation and adjudication of the alleged violations.

Given OGE’s continuing and diligent cooperation, CEC Staff and OGEC believe that rather than engaging in formal adjudication, it would be more productive to enter into a settlement to resolve this matter.

In developing this settlement, CEC Staff considered the cooperation of OGEC, the specific facts developed by CEC Staff and OGE during the course of the investigation and applied the relevant factors in the Public Resources Code Section 25534.1(e) to

determine that settlement, rather than formal adjudication, is a more appropriate use of the CEC's and OGE's collective resources.

The legal requirements at issue, as well as Staff's allegations, and OGECs admissions and denials, are included in the Settlement Agreement, which provides for a payment of \$200,000 by OGE to the CEC.

Staff recommends that the CEC approve the Settlement Agreement and direct the Executive Director to execute the Settlement Agreement on behalf of the CEC.

III. ENERGY COMMISSION FINDINGS

- 1) Public Resources Code section 25532 requires the CEC to establish a monitoring system to assure that any facility certified by the CEC is constructed and is operating in compliance with air and water quality, public health and safety, and other applicable regulations, guidelines, and conditions adopted or established by the CEC or specified in the written decision.
- 2) Public Resources Code section 25534 empowers the CEC to amend or revoke a license or impose administrative civil penalties.
- 3) Public Resources Code section 25534.1 sets forth factors to consider when determining the amount of an administrative civil penalty.
- 4) In reaching resolution, Staff has considered the factors identified in Public Resources Code section 25534.1, specifically the nature, circumstance, extent, and gravity of the alleged violations, the cost to the state in pursuing the enforcement action, efforts by OGE to resolve issues, and its overall cooperation.
- 5) The agreed settlement is appropriate and reflects a fair resolution of the issues.
- 6) Approval of the settlement is exempt from the California Environmental Quality Act as set forth in the California Code of Regulations Title 14, sections 15060(c)(2), 15060(c)(3), 15061(b)(2), 15061(b)(3), 15321, and 15378(a) & (b)(5).

IV. CONCLUSION AND ORDER

The CEC hereby approves the Settlement Agreement and directs the Executive Director or their designee to execute the Settlement Agreement on behalf of the CEC, file a Notice of Exemption with the Office of Planning and Research, and take any other steps necessary to execute the Settlement Agreement.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on September 14, 2022.

AYE: Hochschild, Gunda, Vaccaro

NAY: NONE

ABSENT: McAllister, Monahan

ABSTAIN: NONE

Dated: September 16, 2022

SIGNED BY:

Liza Lopez
Secretariat