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STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION
AMENDMENTS COMMITTEE

In the Matter of:                              
El Segundo Energy Center Amendment )       Docket No. 00-AFC-14C
                                      
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
HEARING ROOM A
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 17, 2014

2:00 P.M.

Reported by:
Peter Petty
APPEARANCES

COMMISSIONERS
Karen Douglas, Presiding Member
Janea Scott, Associate Member

HEARING OFFICER
Raoul Renaud, Hearing Officer

ADVISERS
Jennifer Nelson, Adviser to Commissioner Douglas
Jim Bartridge, Adviser to Commissioner Scott

STAFF
Elena Miller, Chief Counsel
Camille Remy Obad, Compliance Project Manager

APPLICANT
John A. McKinsey, Locke Lorde, LLP
George L. Piantka, NRG Energy

OFFICIALS (TELEPHONIC)
John Yee, SCAQMD
Ken Coates, SCAQMD
COMMISSIONER DOUGLAS: We’re ready to start the Status Conference for the El Segundo Energy Center amendment.

Before we begin we’d like to introduce the Committee to you. I’m Karen Douglas, the Presiding Member on this Committee. To my immediate left is our Hearing Officer Raoul Renaud. And to his left is the Associate Member on the Committee, Commissioner Scott. To her left is her Adviser Jim Bartridge. And to my right is my Adviser Jennifer Nelson.

I’ll now ask the parties to introduce themselves, beginning with the applicant.

MR. MCKINSEY: Thank you. John McKinsey with Locke Lorde, representing the project Owner-Applicant El Segundo Energy Center, LLC. Also with me is George Piantka from NRG Energy representing the --

COMMISSIONER DOUGLAS: Thank you very much. And Staff please?

MS. MILLER: Elena Miller with the Energy Commission’s Chief -- Elena Miller with the Energy Commission’s Chief Counsels Office. And with me is our
Compliance Project Manager Camille Remy Obad.

COMMISSIONER DOUGLAS: Excellent. Thank you. And do we have any of our Interveners on the phone, Michelle Murphy and Bob Perkins? Okay.

Are there any representatives of state, federal, local agencies, Native Americans tribes or elected officials in the room or on the phone today?

MR. YEE: Yes. On the phone, this is -- go ahead.

HEARING OFFICER RENAUD: Go ahead, sir. We can hear you.

MR. YEE: Oh, on the phone, this is John Yee and Ken Coates at the South Coast Air Quality Management District.

COMMISSIONER DOUGLAS: Great. Thank you. Thanks for signing onto this.

And, all right, so with that I’ll hand over the conduct of the hearing to the Hearing Adviser.

HEARING OFFICER RENAUD: Okay. Thank you, Commissioner Douglas.

We scheduled this status conference in a notice that was issued November 5, 2014. And what we’re hoping to do today is to simply hear from the parties regarding their progress in reviewing the -- the Final Staff Assessment, the FSA, help resolve any procedural issues that may be existing, and just continue to get a sense of how we’re doing in terms of progress toward being able to conduct evidentiary hearings.
and ultimately issue a PMPD, Presiding Members Proposed Decision.

On Monday we issued a memorandum for the parties listing some topics for discussion. And I take it you’ve all seen that and had a chance to review it, and hopefully even prepare to discuss the topics. So I thought what we would do today is just go through the topics in that memorandum and hear from each of you to the extent you have anything to say on it.

The first item was actually more in the nature of setting some expectations from the Committee than actually a matter for our obtaining information from you. I think you’re really all pretty well tuned into this already, but what we were trying to make clear through item number one in that memorandum was simply the importance of the parties continuing to familiarize themselves with the FSA, to work on narrowing issues and determining the issues that remain unresolved, to begin thinking about witnesses that you may wish to call in support of your positions at the hearings, and to begin to prepare for listing any -- any issues that you may need the Committee to resolve in the course of those hearings.

So I -- and again, reading your status reports and the other documents you filed preparatory to this hearing it looks to the Committee like you’re -- you’re -- you understand that and you’re proceeding apace. So we’re very pleased and
just keep up the good work with -- on that.

The second item on the memorandum is -- regards the Petition to Amend the -- this is the October 3, 2014 Petition to Amend. And since sending that we’ve seen Staff’s analysis regarding that -- am I -- have I got that right, the -- and it looks to me like that’s probably going to come up on a business meeting agenda at some point; would that be correct?

MS. OBAD: That is correct. We are -- we are shooting for the January 14th business meeting.

HEARING OFFICER RENAUD: All right.

MS. OBAD: And the comment period, the 30-day comment period ends on January 12th.

HEARING OFFICER RENAUD: All right. So that’s probably not something we will take up at this point since that will be the subject of future business meeting discussion.

The -- along the same line, the Air District is issuing an errata to the Final Determination of Compliance. And it looks like again they have issued some corrections in language in that regard. And we’re curious to know how that is impacting the staff’s Air Quality and GHG Analysis?

MS. OBAD: Actually, the -- a lot of the -- I’m sorry. This is Camille Remy Obad. I’m the Compliance --

HEARING OFFICER RENAUD: Yes.

MS. OBAD: -- Project Manager --
HEARING OFFICER RENAUD: Uh-huh.

MS. OBAD: -- for El Segundo. And we did include some language, changes in addition to the ones that were originally proposed for Units 5 and 7. So those will be folded into the Committee hearing that we do in January.

HEARING OFFICER RENAUD: All right, that’s -- again, that will -- that should work out well. So again, it sounds like that will be on the business meeting agenda, as well; is that correct? All right. Good. All right.

Well, we’re already to item three then. Okay, I’m sorry, yeah. Any comments from the applicant on that?

MR. MCKINSEY: No.

HEARING OFFICER RENAUD: All right. Anyone from the Air District wish to comment on that?

MR. YEE: No comments.

HEARING OFFICER RENAUD: No? All right. Very good.

Thank you.

And I’ll check just again, just to make sure, have our Intervenors joined us, Michelle Murphy and Bob Perkins? All right. Okay.

Now the applicant issued comments on the FSA on December 8th, and we appreciate the -- the obvious effort and attention to detail that went into that. That’s -- that is going to be very helpful to this whole process in terms of narrowing and resolving issues.
Before the Committee addresses those in any fashion, I would like to know if the staff has any comments or reactions? You haven’t had much time to work with this yet so I’m not expecting a full blown analysis yet, but --

MS. OBAD: Actually, no. Staff has reviewed all of the comments. And there’s a lot of -- a lot of these issues Staff already agrees with and -- and can accept the proposed amendments. There are a few other things that Staff needs to work out between I think both -- some of the biological comments and some of the cultural comments. But otherwise I think the applicant and staff have come together on a lot of those proposed edits.

HEARING OFFICER RENAUD: All right. That sounds good. So just continue in those efforts and I’m sure you’ll -- you’ll continue to make progress.

One -- one did leap out at me as -- as something I might be able to contribute to, and that was number 16 which is the VIS 8 condition of certification. And this is basically a change proposed by the project owner to add the phrase “Not needed for safety requirements” to the condition about completely shielding or screening lighting so as not to be visible from 45th Street in Manhattan Beach.

The way that’s written now, if I were interpreting it I would say that means that you don’t have to shield or screen lighting that is needed for safety requirements. And I
don’t know if that’s what you -- what you wanted it to say.  

But I would suggest that perhaps what’s trying to be  
accomplished here is that screening shall be done as  
effectively as possible, consistent with safety requirements.  
 Does that -- am I kind of barking up the wrong tree here or --  

MR. MCKINSEY: No. And --  

HEARING OFFICER RENAUD: -- where are you trying to  
go with this?  

MR. MCKINSEY: You are, in effect. We were going a  
little farther than just the word consistent. In the original  
proceeding there was a lot of concern from the parties about  
lighting and its effect on the -- the visibility of the Santa  
Monica Bay from people on the bike path and those things. So  
there’s always been a strong commitment to use shielded  
lighting and minimize lighting. And so the idea was to say if  
there’s a genuine safety -- you’re on the same path, but not  
even necessarily the word just to be “consistent” but there’s  
an obligation to use shielded lighting, but where we have a  
specific safety reason that that light needs to not be a  
shielded light, it has to flare out to the sides where it  
would be visible, that that has to be able to be done.  

HEARING OFFICER RENAUD: All right. Well, I  
understand what you’re saying. And I think maybe you know  
where I was going with that, too, which is that to the extent  
it’s possible to maybe even shield it just a little bit and
still have the safety requirements met, that -- that would
seem to be the kind of a compromise that you might be able to
reach here. And again, this is just wordsmithing that I think
we’re talking about here. That’s -- that’s the only one of
those that leapt out at me. I don’t know if either of the
Commissioners had any -- any other thoughts on these things?
No? All right. Okay. All right.

We had listed next just an update on the publication
date for the final-final FSA. Got any updates for us on that?

MS. OBAD: If I understand --

HEARING OFFICER RENAUD: Not binding, but an
estimate would be nice.

MS. OBAD: And I definitely invite the Air District
to also chime in on this.

As I understand it the FDOC is -- we’re
approximating January; is that correct? Okay. So we’re
thinking that the FDOC will -- will hopefully be coming from
the Air District in the month of January. And then Staff is
going to need to spend a little bit of time analyzing that,
icorporating those changes. And then we’ll also be
incorporating all of the other things that were mentioned in
previous Committee status conferences, including the water
supply and some of the -- some of the other issues that were
touched on before.

So I would -- let’s see, what we were thinking about
in terms of that, 45?

MS. MILLER: We -- we should say that once we receive the document, the FDOC from the Air District, that we should have -- 45 days should be ample time for Staff to publish both revisions to what we’re calling FSA-A, and then to publish what we’ve been calling FSA-B which consists of air quality and GHG section, and to end up having one complete final document. All of the conditions of certification will updated as well. And we are also aware that the desire from the Commission and from this Committee is to have what we’re referring to as a compendium of all of the conditions of certification published as well.

If you have any question about that, I think I’ve just about summed up what we’re aiming toward providing. But again, Staff are waiting for the FDOC from the Air District.

HEARING OFFICER RENAUD: Are you thinking of still doing Part B or -- or simply combining all of that into the final-final?

MS. MILLER: Well, I will admit that we relied on the transcript from our last status conference. And without reading it to you it was clear the Committee wants us to publish one document.

HEARING OFFICER RENAUD: Yes.

MS. MILLER: And so that, as I just said a minute ago, that one document will incorporate the changes that need
to be made to what we’ve published already.

HEARING OFFICER RENAUD: Perfect. Thank you. Yeah, thank you. All right. Okay.

Let’s ask if the applicant has anything to add on that subject?

MR. MCKINSEY: I think, in effect, we might have missed it. On -- it was in your agenda item two, there was a suggestion about getting an idea of the date of the -- of the errata. It’s not actually going to be an FDOC but an errata to the FDOC from the Air District. And we have them on the phone, so I was hoping we might be able to get maybe an estimate. So that would allow even more of the planning around --

HEARING OFFICER RENAUD: Yeah.

MR. MCKINSEY: -- you know, when we can expect events to occur going out, even perhaps to the evidentiary hearings. But I thought we might do that.

HEARING OFFICER RENAUD: All right. That’s a good idea.

Let’s go back to Mr. Yee and Mr. Coates, did you -- were you able to hear that? We’re just curious if you have got a date for us on the errata to the FDOC?

MR. YEE: Yes, we did hear your question and -- or the discussion on the -- on the dates. And tentatively we’re probably thinking about releasing the errata for the FDOC
sometime in January. But, of course, before we do issue the final one we -- we’ll probably be working with your staff and sending them at least draft copies of what we’re going to do before that time, just so that -- and just so that we have all eyes looking at everything so we don’t miss anything.

So you’ll definitely have some form of draft and a final sometime in January.

HEARING OFFICER RENAUD: All right. Thank you.

Great.

Anything else on this -- in this area.

MR. MCKINSEY: I’m good.

HEARING OFFICER RENAUD: All right. Okay. Now Staff, in your status report you indicated that the status of Staff’s analysis on various issues that were discussed at the previous status conference, including Air Quality GHG, which we just did, Visual Resources, Soil and Water and Alternatives would be further discussed at the status conference. I just wondered if you’ve got any updates for us on -- on those? And I think specifically that would be with reference to the Scattergood thing, which I think you’ve done, Soil and Water which probably refers mostly to the water supply analysis, and the Alternatives which we did discuss and which you’ve indicated you’ll be supplementing.

MS. MILLER: For -- you are correct that the Visual section, we believe that’s been handled. We discussed it, and
you’ll recall there was something read at the last status conference. That’s not changed. Staff’s position has not changed. I don’t think there are any new issues that have come up.

Soil and Water resources, very quickly, I’ve worked with Staff briefly. They’re -- they have continued to work on the issue of the water supply assessment, and they are going to be working on putting new text into that section that will reflect the additional information that they’ve received from the local water supplier.

For the Coastal Commission, I’m happy to say that there was a letter docketed today dated yesterday, signed by Tom Luster. The letter is on the docket and so I won’t read it, unless anybody wants to discuss that further.

And for Alternatives, our staff and the Siting Office also are prepared to add additional text to that section. And we’ve discussed it and it seems ample and appropriate. So you’ll see that as well.

HEARING OFFICER RENAUD: Yes. Thank you. And we did see the Coastal Commission letter and that does appear to very, very clearly confirm what we suspected was the Commission’s position on the use of its previous report. So I think we’re -- we’re in good shape there. All right.

Applicant, anything along -- along these lines while we’re here?
MR. MCKINSEY: No.

HEARING OFFICER RENAUD: Okay. All right. Yeah. All right. Okay. We haven’t scheduled a prehearing conference or evidentiary hearings. It’s probably premature to try to do that yet. But I would suspect in the next few weeks we’ll -- we’ll be able to. The question before the house really is whether another status conference before the prehearing conference would be useful. Anybody have any thoughts on that? I think these have been very useful just in terms of kind of keeping everybody focused on the tasks at hand and keeping the Committee informed. Either? Anybody?

MS. MILLER: There is a status report due, I believe the second Monday when we get back from the holidays. And my initial thought is that we could -- Staff could state in our status report some helpful information for the Committee and perhaps make recommendations for scheduling purposes in that report. I admit to not having an idea and concrete recommendation for you today, simply because some of the conditions of certification that Staff are working on we, myself, Camille, the project manager, we’ve not received their final analysis. And that will be indicative of whether we need to do some sort of a workshop or not on particular issues.

HEARING OFFICER RENAUD: Very good. Okay.

Applicant, anything on that?
MR. MCKINSEY: No, I agree. And I do think the status conferences are -- are really useful. The -- but at this point what really may also be more critical is -- is whether we can identify to the Committee in our next status report if there’s a particular role that -- that both the staff and the project owner feel the Committee could step in on some of the remaining topics and things like that --

HEARING OFFICER RENAUD: Perfect.

MR. MCKINSEY: -- that would streamline the evidentiary process significantly.

COMMISSIONER DOUGLAS: That makes sense to me because it -- it seems like we really are at a point where it’s about, you know, finalizing the -- the FSA with the errata from the Air District and -- and really moving into the prehearing conference and evidentiary phase. So I’m not certain that there is a need for another status conference between now and the evidentiary hearing, or the prehearing conference. We wanted to put the question out there, but I’m really more in the mode of saying that unless there is a specific issue or some unforeseen delay or problem we should probably be moving into prehearing conference next.

So we wanted to put the question out, and we’ll look forward to seeing the status report and seeing that you all think after -- when you file it.

HEARING OFFICER RENAUD: Yeah, that sounds good to
And I think if in those next status reports you could perhaps put in some idea of a schedule for the rest of the case, that would be helpful to the Committee. If you feel it’s premature to try to do that, then fine. But if you think you can do it we, you know, we’d appreciate just having that to work with.

Anything?

COMMISSIONER DOUGLAS: No.

HEARING OFFICER RENAUD: Okay. All right. All right.

Let me check again, have we had our Intervenors Bob Perkins, Michelle Murphy join us on the phone? Okay, I guess not. All right.

Following our agenda, the next item would be public comment. Do we have any members of the public here in the room who would care to address the Committee and make a public comment? All right.

Let’s check on the phone then. We have a number of call-in participants. Do any of you wish to make a public comment to the Committee? If you do speak up at this time please. No? All right.

(Colloquy Between Committee Members)

HEARING OFFICER RENAUD: All right. If there’s no public comment, I think we’ll adjourn the status conference. Thank you very much.
(The Meeting of the California Energy Commission Amendments Committee adjourned at 2:25 p.m.)
REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of December, 2014.

[Signature]

PETER PETTY
CER**D-493
Notary Public
CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

[Signature]

MARTHA L. NELSON, CERT**367

December 29, 2014