

DOCKETED

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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

P R O C E E D I N G S

2:04 P.M.

PROCEEDINGS BEGIN AT 2:04 P.M.

(The meeting was called to order at 2:04 p.m.)

SACRAMENTO, CALIFORNIA, WEDNESDAY, DECEMBER 17, 2014

MEETING BEGINS AT 2:04 P.M.

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

1 Compliance Project Manager Camille Remy Obad.

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

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

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

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

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

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

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

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

19 We scheduled this status conference in a notice that
20 was issued November 5, 2014. And what we're hoping to do
21 today is to simply hear from the parties regarding their
22 progress in reviewing the -- the Final Staff Assessment, the
23 FSA, help resolve any procedural issues that may be existing,
24 and just continue to get a sense of how we're doing in terms
25 of progress toward being able to conduct evidentiary hearings

1 and ultimately issue a PMPD, Presiding Members Proposed
2 Decision.

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

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

22 So I -- and again, reading your status reports and
23 the other documents you filed preparatory to this hearing it
24 looks to the Committee like you're -- you're -- you understand
25 that and you're proceeding apace. So we're very pleased and

1 just keep up the good work with -- on that.

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

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

10 HEARING OFFICER RENAUD: All right.

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

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

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

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

24 HEARING OFFICER RENAUD: Yes.

25 MS. OBAD: -- Project Manager --

1 HEARING OFFICER RENAUD: Uh-huh.

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

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

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

12 MR. MCKINSEY: No.

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

15 MR. YEE: No comments.

16 HEARING OFFICER RENAUD: No? All right. Very good.
17 Thank you.

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

21 Now the applicant issued comments on the FSA on
22 December 8th, and we appreciate the -- the obvious effort and
23 attention to detail that went into that. That's -- that is
24 going to be very helpful to this whole process in terms of
25 narrowing and resolving issues.

1 Before the Committee addresses those in any fashion
2 I would like to know if the staff has any comments or
3 reactions? You haven't had much time to work with this yet so
4 I'm not expecting a full blown analysis yet, but --

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

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

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

23 The way that's written now, if I were interpreting
24 it I would say that means that you don't have to shield or
25 screen lighting that is needed for safety requirements. And I

1 don't know if that's what you -- what you wanted it to say.

2 But I would suggest that perhaps what's trying to be
3 accomplished here is that screening shall be done as
4 effectively as possible, consistent with safety requirements.

5 Does that -- am I kind of barking up the wrong tree here or --

6 MR. MCKINSEY: No. And --

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

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

22 HEARING OFFICER RENAUD: All right. Well, I
23 understand what you're saying. And I think maybe you know
24 where I was going with that, too, which is that to the extent
25 it's possible to maybe even shield it just a little bit and

1 still have the safety requirements met, that -- that would
2 seem to be the kind of a compromise that you might be able to
3 reach here. And again, this is just wordsmithing that I think
4 we're talking about here. That's -- that's the only one of
5 those that leapt out at me. I don't know if either of the
6 Commissioners had any -- any other thoughts on these things?
7 No? All right. Okay. All right.

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

10 MS. OBAD: If I understand --

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

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

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

25 So I would -- let's see, what we were thinking about

1 in terms of that, 45?

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

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

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

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

23 HEARING OFFICER RENAUD: Yes.

24 MS. MILLER: And so that, as I just said a minute
25 ago, that one document will incorporate the changes that need

1 to be made to what we've published already.

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

4 Let's ask if the applicant has anything to add on
5 that subject?

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

14 HEARING OFFICER RENAUD: Yeah.

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

18 HEARING OFFICER RENAUD: All right. That's a good
19 idea.

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

23 MR. YEE: Yes, we did hear your question and -- or
24 the discussion on the -- on the dates. And tentatively we're
25 probably thinking about releasing the errata for the FDOC

1 sometime in January. But, of course, before we do issue the
2 final one we -- we'll probably be working with your staff and
3 sending them at least draft copies of what we're going to do
4 before that time, just so that -- and just so that we have all
5 eyes looking at everything so we don't miss anything.

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

8 HEARING OFFICER RENAUD: All right. Thank you.
9 Great.

10 Anything else on this -- in this area.

11 MR. MCKINSEY: I'm good.

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

24 MS. MILLER: For -- you are correct that the Visual
25 section, we believe that's been handled. We discussed it, and

1 you'll recall there was something read at the last status
2 conference. That's not changed. Staff's position has not
3 changed. I don't think there are any new issues that have
4 come up.

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

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

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

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

24 Applicant, anything along -- along these lines while
25 we're here?

1 MR. MCKINSEY: No.

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

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

24 HEARING OFFICER RENAUD: Very good. Okay.

25 Applicant, anything on that?

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

8 HEARING OFFICER RENAUD: Perfect.

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

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

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

25 HEARING OFFICER RENAUD: Yeah, that sounds good to

1 me. And I think if in those next status reports you could
2 perhaps put in some idea of a schedule for the rest of the
3 case, that would be helpful to the Committee. If you feel
4 it's premature to try to do that, then fine. But if you think
5 you can do it we, you know, we'd appreciate just having that
6 to work with.

7 Anything?

8 COMMISSIONER DOUGLAS: No.

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

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

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

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

22 (Colloquy Between Committee Members)

23 HEARING OFFICER RENAUD: All right. If there's no
24 public comment, I think we'll adjourn the status conference.
25 Thank you very much.

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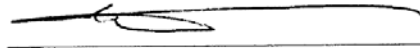
(The Meeting of the California Energy Commission
Amendments Committee adjourned at 2:25 p.m.)

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.



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.



MARTHA L. NELSON, CERT**367

December 29, 2014