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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

Willow Rock Energy Storage Center

Docket No.: 21-AFC-02

**Staff's Motion to Suspend the
Application for Certification
Proceeding**

I. INTRODUCTION

The California Energy Commission (CEC) staff brings this motion under California Code of Regulations, title 20, section 1211.5 seeking an order from the committee suspending the Willow Rock Energy Storage Center Application for Certification (AFC) proceeding and acknowledging that staff will be ceasing project related work until Hydrostor, Inc. (applicant) has submitted a defined project with complete project description information identifying a feasible site, design, and other key elements of the project. In addition, staff requests the order direct the applicant to submit status reports every month to keep the committee, the intervenor, and the public apprised of the project status. Finally, staff requests that to initiate resumption of project related work, the applicant be directed to file a supplemental AFC that contains all necessary information for the updated project, as determined by the committee.

II. BACKGROUND

On December 3, 2021, the applicant filed an AFC for its thermal storage project located in Kern County. At the January 26, 2022, business meeting, the CEC found the AFC deficient in various technical areas. (Pub. Resources Code, § 25522(b).) After receiving supplemental information from the applicant, the CEC deemed the application complete on July 13, 2022, and an initial public hearing and site visit took place on August 11, 2022. On August 31, 2022, the Committee ordered the parties to file monthly status reports.

Staff's efforts to collect additional data, applicant's efforts to provide the data, and the changing project description are documented in the status reports. On May 26, 2023, the applicant filed its 9th status report (TN 250361) which states:

Based on the initial results to date from the geotechnical drilling program and lab analyses, the geotechnical conditions at the site are non-optimal for a cavern at the target depth of 1,800 - 2,000 feet. The lab results indicate that the geotechnical conditions may be more optimal for a shallower cavern that would require different engineering than proposed in the AFC.

In light of the geotechnical lab results, the Applicant is actively considering alternative surface facility configurations, cavern engineering options, and alternate sites to support the cavern design. Alternative sites include adjacent and offsite properties in the area with potentially more favorable geologic conditions.

On June 21, 2023, the applicant filed its 10th status report (TN 250707) which states:

Project optimization efforts are ongoing. As reported in the Applicant's last Status Report [TN 250361], the Applicant is actively considering alternative surface facility configurations, cavern engineering options given the site geotechnical results, and alternate sites that may better support the cavern design. Alternative sites include adjacent and offsite properties in the area with potentially more favorable geologic conditions.

On June 23, 2023, staff filed its status report (TN 250720) which states:

CEC staff understands that the applicant is considering "alternative surface facility configurations," "cavern engineering options," and "alternate sites." The applicant did not provide a definite timeline for selecting a best path forward to ensure a viable project. Accordingly, we believe the best course for CEC staff to take would be to pause active work on the project until the applicant submits a new project proposal backed up by the necessary geological and engineering reports that confirm site viability for the next iteration of the project design and location.

On June 30, 2023, the applicant filed a supplemental letter (TN 250856) agreeing with staff on the appropriateness of staff pausing its work on the AFC pending applicant's submission of an updated project description and other necessary information about the revised project which applicant refers to as "Project Optimization." The applicant also indicates it is agreeable to filing monthly status reports in the docket to keep staff, the committee and the public apprised of its progress.

The parties have been in communication for many months regarding the changing project description. However, after sampling and testing the geology of the proposed site pursuant to Kern County's conditional use permit, the applicant is unable to implement the project in the proposed location. As disclosed in the applicant's June 30, 2023, letter, additional geological testing is occurring outside of the AFC project site.

III. DISCUSSION

A core principle of the California Environmental Quality Act (CEQA) is an accurate, stable, finite project description to support an informative and legally sufficient Environmental Impact Report under the California Environmental Quality Act (CEQA).

(*County of Inyo v. City of Los Angeles* (1977) 71 Cal.3d 185, 14 Cal. Code Regs. § 15124.)

For staff to efficiently discharge its duty to generate an environmental analysis of the project in a timely manner and for the public to understand the scope of the project, a complete project description is necessary. (Cal. Code Regs., title 20, § 1742.)

Under the CEC's certified regulatory program, applicants are required to file detailed and complete project information (Cal. Code Regs., title 20, § 1704, Appendix B) for the CEC to make a determination that the AFC is complete. (Cal. Code Regs., title 20, section 1709.) This starts the 12-month proceeding and sets in motion the public process of project assessment and ultimately a CEC decision to certify the project, or not. (Pub. Resources Code, § 25540.6.)

The Willow Rock (formerly GEM) project application was filed with incomplete geotechnical work and with the assumption that key features of the project would remain unchanged while the geotechnical work was performed. Based on the statements in the applicant's Status Reports 9 and 10, the applicant is "actively considering" significant changes to the project including different sites, different cavern engineering, and different surface facility configurations. Also, the reservoir, which was originally above ground with an extensive earth berm, may be changed to a below ground reservoir requiring significant excavation.

Changing key features of the project and the overall project description will require staff to redo significant analytical work across multiple disciplines. While the applicant considers and seeks alternative sites and designs, the project should be suspended to allow staff to allocate its fixed resources on reviewing other viable projects. Suspension of the Willow Rock project will protect public resources and reduce confusion for the public and other state and local agencies, as multiple iterations of project information complicate the record.

Staff reasonably plans to cease work on the project until the applicant has finalized all geotechnical work, assessed the results, and generated a defined project with all key elements fully developed in a static project description. The key elements of the project include location, physical characteristics of the subsurface cavern, surface facility configurations, and specifications of the reservoir. Based on the details of the final project, information in the relevant technical sections will need to be updated by the applicant.

Under California Code of Regulations, title 20, section 1203 the presiding member of a committee has the authority to:

Regulate the conduct of the proceedings and hearings, including, but not limited to, disposing of procedural requests, ordering the consolidation or severance of any part, or all, of any proceeding or hearing, admitting or excluding evidence, designating the subject matter, scope, time of presentation, and order of appearance

of persons making oral comments or testimony, accepting stipulations of law or fact, and continuing the hearings.

A committee's authority to regulate the proceeding includes the authority to suspend a proceeding. In the Hydrogen Energy Center proceeding (Docket 08-AFC-08A) the committee, in exercising its authority to suspend the proceeding, stated:

Requests for Suspension have been brought on numerous occasions in other AFC proceedings. The usual basis for such requests, including the one before us, is that the applicant has run into an obstacle that it needs time to resolve, and the suspension provides an opportunity both for the applicant to address the obstacle and for the Commission to turn its efforts and resources to other matters. (Committee Order Denying Motion to Terminate and Granting Request for Suspension, Dated July 3, 2015, TN 205238-1.)

As with the Hydrogen Energy Center proceeding, the applicant in this case needs an indeterminate amount of time to address project obstacles including site, configuration, and project design. As such, staff is requesting suspension of the proceeding, which is well within the scope of the committee's authority to regulate the conduct of proceedings. Long duration energy storage is the type of thermal energy facility that supports the purposes of the Warren-Alquist Act, and the applicant appears to be pursuing the same or similar compressed air storage technology within Kern County potentially near the originally proposed site. Suspension allows the committee to continue to monitor applicant's progress.

IV. CONCLUSION AND ORDER

Given the current uncertainty of the project's key features, staff seeks an order suspending the project, acknowledging that staff will cease project related work, and directing the applicant to submit status reports every month to keep the committee and the public apprised of the project status. Staff also requests that in order to resume processing of the AFC, the applicant be directed to file a supplemental AFC that contains detailed and complete information for the updated project, subject to approval by the committee. Given the apparent scope of revisions, staff requests that after the committee deems the supplemental AFC complete, adequate time for further data requests be provided pursuant to California Code of Regulations section 1716(e).

Dated: 7/12/2023

/s/

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