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STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

**THE EL SEGUNDO ENERGY CENTER
AMENDMENT**

DOCKET NO. 00-AFC-14C

**EL SEGUNDO ENERGY CENTER LLC'S
PREHEARING CONFERENCE STATEMENT**

October 19, 2015

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**EL SEGUNDO ENERGY CENTER LLC'S
PREHEARING CONFERENCE STATEMENT AND EXHIBIT LIST**

On September 23, 2015, the Committee assigned to this proceeding issued a Notice of Prehearing Conference and Evidentiary Hearing, Scheduling Order and Further Orders (“Notice and Order”). The Notice and Order directed all parties to docket a Prehearing Conference Statement and Exhibit List (“Prehearing Conference Statement”) no later than 3:00 p.m. on Monday, October 19, 2015. Accordingly, El Segundo Energy Center LLC (“Project Owner”) herein provides its Prehearing Conference Statement and Exhibit List.

I. Subject Areas That Are Complete and Ready to Proceed to Evidentiary Hearing

Project Owner believes that all subject areas have been thoroughly analyzed and any potential impacts thoroughly evaluated. Appropriate mitigation measures have been proposed to minimize impacts. Project Owner is therefore ready to proceed to Evidentiary Hearing on all subject areas on November 17, 2015.

II. Subject Areas Upon Which Project Owner Proposes to Introduce Written Testimony Rather Than Oral Testimony.

A. AQ-33

Project Owner has introduced written testimony to support a change in the verification requirement of this Condition of Certification (“COC”) to reflect the actual testing method approved by South Coast Air Quality Management District for VOC compliance monitoring. Staff agrees with the change and has proposed a further minor revision. Project Owner does not anticipate the need to present oral testimony on this matter. However, Project Owner and Staff may jointly file an administrative errata, prior to evidentiary hearings, to clarify which air quality COCs apply to specific units.

B. Compliance Conditions COM-10 and COM-11

Between the issuance of the FSA Part A and the Combined FSA, several Compliance COCs were altered. Project Owner submitted testimony requesting that certain changes to COM-10 and

COM-11 be removed. With respect to COM-10, Project Owner requested that language regarding statutory obligations to pay amendment fees on any future amendments be removed because it was unnecessary. With respect to COM-11, Project Owner requested that the original ten-day timeframe for reporting complaints to the CPM be restored. In their rebuttal testimony, Staff agreed on these issues. Project Owner, therefore, does not anticipate the need to present oral testimony on this matter.

C. Hazardous Materials

Project Owner submitted written testimony to support altering HAZ-5's timeframe to submit a site-specific Security Plan to address physical site security and hazardous materials storage. In their rebuttal testimony, Staff agreed that the change was appropriate. Project Owner does not anticipate the need to present oral testimony on this matter.

D. Other Topics

Project Owner submitted declarations to sponsor numerous documents, including the PTA, as evidence in this proceeding. Project Owner intends these declarations to be its written testimony in all subject areas that are not listed above and not in dispute. Project Owner does not anticipate the need to present oral testimony on any of these matters.

III. Subject Areas That Are Incomplete and Not Ready For Evidentiary Hearing.

Project Owner believes that all subject areas are complete. Project Owner is ready to proceed to Evidentiary Hearing on all subject areas on November 17, 2015.

IV. Subject Areas in Dispute.

A. Contingency Conditions

Between the issuance of the FSA Part A and the Combined FSA, Staff introduced a new category of Conditions of Certification called Contingency Conditions. As far as Project Owner is aware, this is the first time Staff has ever proposed COCs in this new type of category in any power plant siting proceeding. Project Owner submitted written testimony to support revisions to the two COCs proposed by Staff titled CONTINGENCY-1 and CONTINGENCY-2. Project Owner was concerned that the unintended consequence of CONTINGENCY-1 and CONTINGENCY-2, when read together, was to set a date certain for the start of construction for a project that has yet to secure a Power Purchase Agreement. Project Owner was also concerned that the newly proposed conditions would require the Project Owner to commence demolition of Units 3 and 4 by a date certain even if financing for the PTA as a whole has not been secured. Based on Staff's response in their rebuttal testimony, it is clear that Staff and Project Owner have a disagreement as to the effect and appropriateness of these conditions.

Project Owner proposed a new Contingency COC, CONTINGENCY-3, in its written testimony to address the potential incorporation of clutch technology into the design of the Trent 60 units. In their rebuttal testimony, Staff proposed certain changes to this Condition. Staff also proposed a

new Contingency Condition, CONTINGENCY-4, which will impose new requirements on the Project Owner.

Project Owner would like to reserve the right to present further evidence on all four proposed Contingency conditions at the Evidentiary Hearing.

B. Feasibility / Economics / Impacts of Installing Clutch Technology

Project Owner has introduced written testimony as to the feasibility, economics, and impacts of incorporating clutch technology into the design of the project's turbines. Specifically, Project Owner has presented testimony that it is feasible to incorporate such technology into the design of the Trent 60 units, but that it does not believe that doing so benefits this project or mitigates any identified significant adverse environmental impact. However, Project Owner has proposed a new Contingency COC that would, under certain circumstances, require Project Owner to incorporate clutch technology into the design of the Trent 60 units. Based on Staff's rebuttal testimony, it appears that Project Owner and Staff are close to agreement on this issue though some disagreement remains. Project Owner would therefore like to reserve the right to present further evidence on this topic area at the Evidentiary Hearing.

C. Compliance Conditions COM-12 and COM-13

Between the issuance of the FSA Part A and the Combined FSA, Staff introduced several revisions into the Compliance COCs. Project Owner submitted written testimony on the impacts of changes made to COM-12 and COM-13.

In COM-12, Staff altered the timing for submittal of the Emergency Response Site Contingency Plan (ERSCP). The ERSCP went from being an operations emergency response plan to being an emergency response plan for all phases of the project. Project Owner's written testimony noted that an ERSCP that covers the construction period is redundant as Worker Safety-1 already mandates the preparation of a Demolition and Construction Emergency Action Plan. Project Owner requested that the original submittal period, sixty days prior to the start of commercial operation, be restored. Project Owner's primary concern is that having two separate emergency plans for the construction phase of the project could mean that, in the event of an emergency, various responders will literally not be on the same page. Project Owner's intent is not to eliminate emergency response provisions, protections, and coordination during the construction phase. Rather, it intends to ensure that effective emergency response exists during all project phases. Because Project Owner and Staff share the same concerns, Project Owner is convinced that agreement on this condition can be reached prior to, or at, the Evidentiary Hearing.

In COM-13, Staff introduced changes that Project Owner believes create ambiguities in the project's incident reporting requirements. Project Owner believes, for example, that a reporting requirement for any incident which could result in a reduction in the facility's ability to respond to dispatch might require daily reporting depending on how that provision is interpreted. Project Owner believes that its position is reconcilable with Staff's position on this Condition. Both parties want to ensure that effective and relevant incident-reporting occurs. Project Owner is convinced that agreement on this condition can be reached prior to, or at, the Evidentiary Hearing.

For the reasons stated above, Project Owner would like to reserve the right, if necessary, to present oral testimony at the Evidentiary Hearing on COM-12 and COM-13.

D. Biological Resources and Cultural Resources

Staff’s rebuttal testimony indicated that they believe that contested issues remained in the areas of Biological Resources and Cultural Resources. Staff stated that they would identify the contested issues in these areas in their Prehearing Conference Statement. Project Owner is unaware of which specific issues staff is referring to, and would therefore like to broadly reserve the right to present evidence and offer testimony at the Evidentiary Hearing in these technical areas.

E. Other Topics

Project Owner has summarized what it believes to be the most likely areas of focus during the Evidentiary Hearing. However, Project Owner would like to reserve the right to present evidence and offer testimony at the Evidentiary Hearing on other topics if necessary.

V. Project Owner’s Witnesses

Project Owner intends to present the following witnesses:

Witness	Quals.	Subject Area	Form	Summary of Testimony	Time Required
George Piantka, P.E.	Resume (TN-206179, pp. 28-33.)	Contingency Conditions of Certification	Written and, if necessary, Oral (in person).	Removal of Units 3/4 is a core part of the overall ESPFM project. Contingency-1 and Contingency-2 need to be amended.	10 minutes
Gary Rubenstein, B.S., Engineering	Resume (TN-206179, pp. 18-20.)	Air Quality / Clutch Technology	Written and, if necessary, Oral (in person)	AQ-33 should be amended to reflect actual testing method for VOCs. Installation of clutch technology does not provide an air quality / greenhouse gas benefit to this project.	10 minutes
Steven Rose, B.S., Mechanical Engineering	Resume (TN-206179, pp. 22-24.)	Facility Design / Clutch Technology	Written and, if necessary, Oral (in person)	The most feasible option for incorporating clutch technology into the project design is to incorporate it into the Trent 60 units	10 minutes
Scott Seipel, B.S., Geology	Resume (TN-206179, pp. 35-40.)	Compliance / Hazardous Materials	Written and, if necessary, Oral (in person)	The original time frames in COM-11 and COM-12 should be restored. COM-13 contains ambiguous language and presents compliance difficulties as written. COM-10	10 minutes

Witness	Quals.	Subject Area	Form	Summary of Testimony	Time Required
				contains unnecessary language. The timing of HAZ-5's site-specific security plan should be linked to construction and not PTA approval	
Scott Valentino, B.S., Economics	Resume (TN-206179, p. 26.)	Clutch Technology	Written and, if necessary, Oral (in person)	There is no compelling reason to incorporate clutch technology into the project design. There is no identified need for voltage support at the site, there are better ways to address voltage support needs, and there are no contracting opportunities for voltage support at this location.	10 minutes
Robert Mason, M.A., Urban and Regional Studies	Resume (TN-206179, pp. 53-54.)	Project Description / Environmental Analysis	Oral (in person)	Available for rebuttal testimony at Evidentiary Hearing if necessary.	5 minutes
Melissa Fowler, M.S. Environmental Studies	Resume (TN-206179, pp. 62-63.)	Biological Resources	Oral (in person)	Available for rebuttal testimony at Evidentiary Hearing if necessary.	5 minutes
Clinton Helton, RPA	Resume (TN-206179, pp. 66-67.)	Cultural Resources	Oral (in person)	Available for rebuttal testimony at Evidentiary Hearing if necessary.	5 minutes
Mark Bastasch, P.E., INCE	Resume (TN-206179, pp. 70-71.)	Noise and Vibration / Biological Resources (related to Noise)	Oral (in person)	Available for rebuttal testimony at Evidentiary Hearing if necessary.	5 minutes

VI. Subject Areas Upon Which Project Owner Desires to Question Other Parties' Witnesses

Contingency Conditions

Staff and Project Owner clearly have disagreement in the area of Contingency Conditions. The scope of Project Owner's questioning will be: Staff's reasoning for creating a new category for Conditions of Certification; what changed between the FSA Part A and the Combined FSA that necessitated the creation of an entirely new category of Condition of Certification; Staff's

reasoning for treating the demolition of Units 3 and 4 as a project separate and apart from the construction of Units 9-12; the basis for Staff's conclusion that capital funding is available for the demolition of Units 3 and 4 even if the Project has not secured a Power Purchase Agreement; the basis for Staff's conclusion that placing a date certain for the commencement of demolition of Units 3 and 4 will not interfere with Project Owner's efforts to secure financing for the project as a whole; Staff's qualifications in the area of project finance; whether CONTINGENCY-1 and CONTINGENCY-2, when read together, impose a date certain on the Project Owner to commence demolition of Units 3 and 4 and/or begin construction; and the need for a Delayed Construction Management Plan immediately after PTA approval.

These questions will address the issues of whether Staff is treating the PTA as two separate projects and the impacts of these new COCs on the project as a whole. Project Owner does not anticipate that more than thirty minutes are necessary for questioning.

Clutch Technology

Project Owner and Staff appear to have some disagreement in the area of incorporating clutch technology into the project design. The scope of questioning in this topic area will include: whether a local need for voltage support has been identified; impacts associated with incorporating clutch technology into the project design; the feasibility from a physical and economic perspective of incorporating clutch technology into the project design; the source of Staff's information on the CalPeak Malaga plant's project design; the feasibility of retrofitting clutch technology to the Trent 60 units after the units have been installed; whether there are other means of achieving voltage support; and Staff's reasoning for changes to the proposed CONTINGENCY-3 COC. The questions will address the issue of whether the incorporation of clutch technology would benefit this project and whether the project should be designed with design clearances for the incorporation of clutch technology even if voltage support is not needed at the location or it isn't economically feasible. Project Owner does not believe that more than twenty minutes of questioning will be necessary in this topic area.

Compliance Conditions

Project Owner and Staff have a minor disagreement in the area of Compliance conditions centered on COM-12 and COM-13.

The scope of questioning as relates to COM-12 will revolve around: whether it is duplicative of existing safety plan requirements for demolition and construction; whether having both an Emergency Response Site Contingency Plan and a Demolition and Construction Emergency Action Plan presents the possibility of confusion during an actual emergency, particularly if responders are reading from separate and distinct plans; and whether it would be better to tie the Emergency Response Site Contingency Plan to the operations period rather than the construction period. The issue is ensuring that responders, in the event of an emergency, are literally on the same page.

The scope of questioning as relates to COM-13 will revolve around: whether an incident reporting timeframe of one hour after it is safe and feasible is enough time; whether the condition requires

reporting of every incident with the potential to reduce dispatchability; the types of incidents that could potentially reduce dispatchability that would trigger the need for reporting; the feasibility of reporting every incident that could potentially reduce dispatchability; and whether other reporting requirements are vague and can be clarified. The issue is ensuring that quick and effective incident reporting occurs.

Between COM-12 and COM-13, because the scope of disagreement is minor, Project Owner does not anticipate needing more than ten minutes of questioning.

Air Quality

In their rebuttal testimony, Staff stated that they believed that contested issues remain in the area of Air Quality. However, Staff also indicated agreement with Project Owner's position on the method for determining compliance with the VOC emission limit. Project Owner is unaware of what other Air Quality issues Staff believes remains contested (other than, perhaps, related to the clutch technology area identified above). Therefore, Project Owner is unable to summarize the scope of questions, the issues to which they would pertain, or the time required to question witnesses. Project Owner believes that the scope of questioning would be directly responsive to Air Quality issues raised by Staff in their Prehearing Conference Statement. Project Owner may ask foundational questions as to the witness's qualifications and the basis for any oral testimony or opinion provided. Project Owner does not believe that more than ten minutes would be necessary for questioning.

Biological Resources

In their rebuttal testimony, Staff stated that they believed that contested issues remain in the area of Biological Resources. In neither their written testimony nor their rebuttal testimony did they identify what those issues are. Therefore, Project Owner is unable to summarize the scope of questions, the issues to which they would pertain, or the time required to question witnesses. Project Owner believes that the scope of questioning would be directly responsive to Biological Resources issues raised by Staff in their Prehearing Conference Statement. Project Owner may ask foundational questions as to the witness's qualifications and the basis for any oral testimony or opinion provided. Project Owner does not believe that more than ten minutes would be necessary for questioning.

Cultural Resources

In their rebuttal testimony, Staff stated that they believed that contested issues remain in the area of Cultural Resources. In neither their written testimony nor their rebuttal testimony did they identify what those issues are. Therefore, Project Owner is unable to summarize the scope of questions, the issues to which they would pertain, or the time required to question witnesses. Project Owner believes that the scope of questioning would be directly responsive to Cultural Resources issues raised by Staff in their Prehearing Conference Statement. Project Owner may ask foundational questions as to the witness's qualifications and the basis for any oral testimony or opinion provided. Project Owner does not believe that more than ten minutes would be necessary for questioning.

Hazardous Materials

In their rebuttal testimony, Staff stated that they believed that contested issues remain in the area of Hazardous Materials. However, Staff also indicated agreement with Project Owner's position on the timing of a site-specific security plan. Project Owner is unaware of what other Hazardous Materials issues Staff believes remains contested. In neither their written testimony nor their rebuttal testimony did Staff identify any other issues related to Hazardous Materials. Therefore, Project Owner is unable to summarize the scope of questions, the issues to which they would pertain, or the time required to question witnesses. Project Owner believes that the scope of questioning would be directly responsive to Hazardous Materials issues raised by Staff in their Prehearing Conference Statement. Project Owner may ask foundational questions as to the witness's qualifications and the basis for any oral testimony or opinion provided. Project Owner does not believe that more than ten minutes would be necessary for questioning.

VII. Project Owner's Exhibits

Exhibit Number	Document TN	Document Title	Subject Area(s)
1000	70442	El Segundo Energy Center Petition to Amend	All
1001	70977	Applicant's Letters Dated May 17, 2013 and May 22, 2013 to SCAQMD	Air Quality
1002	71011	Applicant's Letter to SCAQMD dated May 24, 2013	Air Quality
1003	71160	Applicant's Letter to South Coast Air Quality Management District dated June 5, 2013	Air Quality
1004	71279	Applicant's Letter Dated June 10, 2013 to South Coast Air Quality Management District	Air Quality
1005	71457	Applicant's Letter to South Coast Air Quality Management District re Permit Application	Air Quality
1006	71492	Applicant's Letter Dated July 1, 2013 to South Coast Air Quality Management	Air Quality
1007	71653	Applicant's Letter to South Coast Air Quality Management District, dated July 17, 2013	Air Quality
1008	200097	Sierra Research Supplemental Impact Analysis for the El Segundo Power Facility Modification Project on behalf of Applicant	Air Quality
1009	200346	Sierra Research Response to SCAQMD Request for Additional Information	Air Quality

Exhibit Number	Document TN	Document Title	Subject Area(s)
1010	200464	Applicant's Responses to Data Requests in Set One (#1-83)	Project Description, Alternatives Analysis, Air Quality, Biological Resources, Cultural Resources, Visual Resources
1011	200532	Applicant's Responses to Data Requests in Set Two (#84-90)	Socioeconomics, Visual Resources, Waste Management
1012	200666	Applicant's Supplemental Responses to Certain Data Requests in Set One (17, 19, 23, 34, 36, 38, 40 and 56)	Air Quality
1013	201082	Applicant's Response to Data Request 87 of Data Request Set Two	Waste Management
1014	201092	Applicant's Responses to Data Requests in Set Three (#91-92)	Waste Management
1015	201153	Applicant's November 5, 2013 Letter to SCAQMD	Air Quality
1016	201185	Condition of Certification GEO-5: Applicant's Final Engineering Geology Report	Geology and Paleontology
1017	201186	Applicant's Responses to Data Requests in Set Four (#93)	Socioeconomics
1018	201210	Data to Supplement Applicant's Responses to Data Request Set 1 (#34, 44, 57 – 60, 83)	Air Quality
1019	201276	ESEC LLC 11/07/13 Letter to SCAQMD Re: Combined Impact Analysis	Air Quality
1020	201278	ESEC Geotechnical Reports Requested in Email Dated November 13, 2013	Geology and Paleontology
1021	201363	Cultural Resources Data to Supplement Responses to Data Request Set 1	Cultural Resources
1022	201382	Data to Supplement the Response to Data Request 56	Air Quality
1023	201424	Data to Supplement Project Owner's Response to Data Request 85	Socioeconomics
1024	201462	Cultural Resources Data to Supplement Responses to Data Requests 81 and 82	Cultural Resources
1025	201467	Data to Supplement Project Owner's Response to Data Request 61	Biological Resources

Exhibit Number	Document TN	Document Title	Subject Area(s)
1026	201510	Air Quality Data to Supplement Certain Responses in Data Response Set 1	Air Quality
1027	201514	Response to Data Request Set Five (#94)	Traffic and Transportation
1028	201578	Cultural Resources Data to Supplement Data Response 78	Cultural Resources
1029	201611	Comments re: South Coast Air Quality Management District Preliminary Determination of Compliance – Replaces TN#201609	Air Quality
1030	201749	Revised Offset Plan	Air Quality
1031	201763	Email from NRG Energy in Response to CEC Staff Questions	Biological Resources
1032	201814	Supplemental Data Related to Data Request Set 3 (Nos. 91 and 92)	Waste Management
1033	201815	Supplemental Worst-Case Analysis Data for Data Request Set 3 (Nos. 91 and 92)	Waste Management
1034	202294	Response to April 2, 2014 SCAQMD Letter; Response to CO2 NSPS and Rule 1305 Comments for FDOC Consideration	Air Quality
1035	202376	Replacement Figure for Proposed Condition of Certification NOISE 8	Noise
1036	202466	Supplemental Information Regarding Auxiliary Boiler	Air Quality
1037	203162	Project Owner's Petition to Amend the El Segundo Energy Center Project	Air Quality
1038	203294	Units 5 and 7 Startup/Restart Information	Air Quality
1039	203413	Project Owner's 12/03/14 Response Letter re: Title V Administrative Permit Revision	Air Quality
1040	203415	South Coast Air Quality Management District Title V Administrative Permit Revision	Air Quality

VIII. Scheduling Matters

Project Owner believes that the schedule outlined in the September 23, 2015 Notice is appropriate and that the proceeding should move forward according to that schedule.

Project Owner requests, if briefing is necessary after the Evidentiary Hearing, that the parties be given two weeks from the date of the Evidentiary Hearing.

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By:  _____

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