

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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CEC-70 (Revised 07/2022)



IN THE MATTER OF:

PECHO ENERGY STORAGE CENTER

Docket No. 21-AFC-01

ORDER EXTENDING THE TIME TO RULE ON STAFF'S MOTION TO SUSPEND

BACKGROUND

On November 23, 2021, Pecho LD Energy Storage, LLC (Applicant) filed an Application for Certification (AFC) with the California Energy Commission (CEC) to construct and operate the Pecho Energy Storage Center (Pecho).¹ On January 27, 2022, the CEC ruled that the Pecho application was deficient in the information required for an AFC under Appendix B, reserving a determination about whether the Pecho application was properly filed as an AFC as a type of project that is exempt from the Notice of Intention (NOI) process.² On June 8, 2022, the CEC ruled that the Pecho application qualifies for an exemption from the NOI process, and thus may proceed as an AFC.³

On August 30, 2023, Applicant filed a Motion to Suspend the AFC Proceeding through December 31, 2024 (Motion to Suspend) to allow the Applicant to explore options to develop a modified energy storage resource while addressing stakeholder feedback, including consideration of alternative sites located outside California's Coastal Zone.⁴ Applicant's Motion to Suspend states that if the Applicant has not filed a Supplemental AFC by December 31, 2024, the Applicant shall either file a new motion to further suspend the proceeding by making a showing of good cause or voluntarily terminate the AFC.⁵

¹ Application and all filed documents related to the Pecho proceeding are available via the "Docket Log (21-AFC-01)" link on the [Pecho proceeding's web page](https://www.energy.ca.gov/powerplant/caes/pecho-energy-storage-center) at <https://www.energy.ca.gov/powerplant/caes/pecho-energy-storage-center>. The Application comprises many separate documents filed in the docket beginning November 23, 2021, e.g., the introduction is TN 240712-1.

² TN 241290.

³ TN 243542.

⁴ TN 252041.

⁵ *Id.* at p. 2.

On September 13, 2023, CEC staff (Staff) timely filed a response to Applicant’s Motion to Suspend, objecting to Applicant’s request for suspension, and moving to terminate the proceeding instead (Motion to Terminate).⁶ Staff contends that Applicant failed to demonstrate good cause to suspend the proceeding, such as showing that Applicant could resolve an obstacle to progressing the AFC if given additional time. Rather, Staff contends Applicant failed to pursue the AFC “with due diligence” within the meaning of California Code of Regulations, title 20, section 1720.2.⁷ Staff states the Applicant has made no apparent progress toward resolving the deficiencies in the information required for an AFC.⁸ Staff claims that the fact that Applicant is considering alternate locations outside the Coastal Zone suggests that Applicant is pursuing a new unrelated project instead of the Pecho.⁹ Moreover, Staff contends that refile after suspension and refile after termination involve the same process for the Applicant.¹⁰ And Staff states the public would benefit from the certainty of resolution provided by termination of an apparently nonviable AFC.¹¹

DISCUSSION AND ORDER

Under the CEC’s regulations, responses to motions shall be filed within 14 days of the service of the motions, and rulings on motions are to be issued within 30 days of the filing of that motion unless ordered otherwise by the Presiding Member of the Committee assigned to conduct proceedings on the AFC.¹² Accordingly, Applicant must respond to Staff’s Motion to Terminate no later than September 27, 2023. No further responses or replies are authorized.¹³ And unless the Presiding Member orders otherwise, the Committee must rule on Applicant’s Motion to Suspend no later than September 29, 2023, and on Staff’s Motion to Terminate no later than October 13, 2023.

To act efficiently and in the interest of justice, including full consideration of the related Motion to Suspend and Motion to Terminate, and all responses to both, the Presiding Member hereby **ORDERS** that the Committee shall have until October 13, 2023, to rule on both the Motion to Suspend and the Motion to Terminate. Applicant’s deadline to respond to Staff’s Motion to Terminate remains September 27, 2023.

⁶ TN 252233.

⁷ *Id.* at p. 3.

⁸ *Ibid.*

⁹ *Id.* at pp. 1, 3, 4.

¹⁰ *Id.* at p. 2.

¹¹ *Id.* at pp. 2, 4.

¹² Cal. Code Regs., tit. 20, § 1211.5; see Cal. Code Regs., tit. 20, § 1203(c). On March 10, 2023, the CEC amended the appointed Committee to consist of Andrew McAllister, Commissioner and Presiding Member, and Noemí Gallardo, Commissioner and Associate Member, to preside over any proceedings arising from the Application for Certification. TN 249086.

¹³ See General Orders, TN 243314, p. 2.

PUBLIC ADVISOR AND OTHER CEC CONTACTS

The CEC's Public Advisor assists members of the public with participating in CEC proceedings. For information on how to participate in this proceeding, please contact the Public Advisor at publicadvisor@energy.ca.gov, or (916) 957-7910.

Direct questions of a procedural nature related to the AFC to Hearing Officer Ralph Lee at Ralph.Lee@energy.ca.gov or 916-776-3408.

Direct technical subject inquiries concerning the AFC to Project Manager Lisa Worrall at STEPsiting@energy.ca.gov or 916-661-8367.

Direct media inquiries to mediaoffice@energy.ca.gov or (916) 654-4989.

AVAILABILITY OF DOCUMENTS

Information about the Application, as well as notices and other relevant documents pertaining to this proceeding, may be viewed on the [Pecho Energy Storage Center Project webpage](https://www.energy.ca.gov/powerplant/caes/pecho-energy-storage-center) at: <https://www.energy.ca.gov/powerplant/caes/pecho-energy-storage-center> or scan the following QR code:



IT IS SO ORDERED.

Dated: September 22, 2023

APPROVED BY:

Andrew McAllister
Commissioner and Presiding Member
Pecho Energy Storage Center Committee