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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

**CALIFORNIA UNIONS FOR RELIABLE ENERGY  
ISSUES IDENTIFICATION STATEMENT AND PROPOSED  
SCHEDULE**

August 9, 2024

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## INTRODUCTION

California Unions for Reliable Energy (“CURE”) submits this Issues Identification Statement and Proposed Schedule pursuant to the Committee’s *Order Terminating the Suspension of the Willow Rock Energy Storage Center Proceeding 21-AFC-02* (“Order”) filed on July 26, 2024.<sup>1</sup> In its Order, the Committee directed the parties to file an Issues Identification Statement summarizing the major issues presented by the Supplemental Application for Certification (“SAFC”) for the reconfigured and relocated Willow Rock Energy Storage Center Project (“WRESC” or “Project”) and a proposed schedule for the pre-hearing and evidentiary phases of the proceeding.<sup>2</sup>

## DISCUSSION

Beginning on March 1, 2024, GEM A-CAES LLC (“Applicant”) submitted the SAFC for the reconfigured compressed air energy storage facility and related accessories at a new Project site in unincorporated Kern County, California.<sup>3</sup> On March 8, 2024, the Applicant submitted an amended cover letter and attestation of completeness for the SAFC.<sup>4</sup> Tables 1a and 1b in the letter identify the filings that comprise the SAFC, which include thousands of pages of new information, reports, and modeling files.<sup>5</sup> The letter also describes the original AFC filing and previous responses to data

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<sup>1</sup> TN 258022.

<sup>2</sup> *Ibid.*

<sup>3</sup> TN 254951.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

adequacy and data requests as “largely superseded by the [SAFC].”<sup>6</sup> If any prior information is relevant to the SAFC, “the Applicant will refile the [] information as a new filing in this proceeding.”<sup>7</sup>

## **I. ISSUES IDENTIFICATION**

CURE is reviewing the SAFC and other documents docketed in the proceeding. Discovery is ongoing and CURE is working with the assistance of technical experts in air quality, public health, greenhouse gas (“GHG”) emissions, hazards, biology, noise, geology, and water and hydrology to identify data requests to the Applicant. CURE anticipates filing its first set of data requests within the next 30 days.

CURE and its consultants are evaluating the Project’s adverse environmental effects related to several technical areas and preparing data requests to gather additional information about the environmental setting, environmental impacts, and feasible mitigation measures. Pursuant to the Committee’s Order, below is a summary of the major issues identified by CURE’s consultants to date related to biological resources, geologic resources, public health, air quality, GHG emissions, and noise. However, CURE’s review of the SAFC and other documents filed to the docket is continuing and additional issues may arise in these and other resource areas.

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<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

### **A. Biological Resources**

CURE's biologist is analyzing the adequacy of the biological resources' surveys completed for the new Project site and is identifying whether there are any deficiencies. The results of these surveys will inform the environmental setting in Staff's PSA and omissions in this baseline data would result in a deficient impacts analysis and identification of mitigation measures. CURE's biologist is also assessing the significance of impacts on biological resources due to avian collision and electrocution hazards, noise, night lighting, and construction of access roads and improvements to existing roads for the Project's generator tie-line ("gen-tie line").

### **B. Geologic Resources**

The Project location must provide suitable geologic formations to construct and operate the underground cavern for the storage of compressed air, as well as shafts for the conveyance of air and water between the cavern and surface facility. The SAFC lacks sufficient information concerning the Project's site-specific geologic and hydrogeologic data to inform analysis of impacts during construction and operation of the cavern. CURE's consultant has identified specific information and data to request from the Applicant to perform an evaluation of the Project's significant effects on geologic resources and hazards.

### **C. Public Health**

CURE has a strong interest in protecting public health and worker safety. CURE's public health expert is evaluating impacts and mitigation related to particulate matter emissions from construction activities that may significantly impact public health due to the inhalation of respirable dust particles and exposure to contaminated soils impacted by spores of Valley Fever.

### **D. Noise**

The adequacy of the SAFC's noise impacts analysis will be determined by reference to standards in the California Environmental Quality Act ("CEQA") Guidelines, which provide that a significant noise impact may occur if the Project would result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of the standards in the Kern County General Plan or Kern County noise ordinances, or applicable standards of other agencies.<sup>8</sup>

According to the SAFC, "[c]avern construction will occur 24 hours per day, 7 days per week," and "[d]uring cavern construction, trucks will either haul excavated waste rock up to 24 hours per day from the WRESC Site or re-use the material onsite."<sup>9</sup> During operations, "[t]he WRESC will be operated and monitored continuously 24 hours per day, 7 days per week..."<sup>10</sup> Based on the Project's proposed hours for construction and operations,

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<sup>8</sup> CEQA Guidelines, Appendix G.

<sup>9</sup> TN 254806.

CURE's noise consultant is evaluating the adequacy of the noise impacts analysis in the SAFC and its appendices, particularly with regard to potentially significant noise impacts during nighttime construction activities and operations.

#### **E. Air Quality and Greenhouse Gas Emissions**

Construction of the Project is anticipated to occur over the course of five (5) years.<sup>11</sup> According to the SAFC, construction emissions will include, but are not limited to: combustion of fuel in vehicles onsite, fugitive dust from vehicle travel on unpaved roads onsite, fugitive dust from wind erosion, land clearing and material movement onsite, fugitive dust from rock screening and crushing, fugitive dust from concrete batch plant operations, combustion of fuel in vehicles and both onsite and offsite equipment, and fugitive dust from vehicle travel on paved and unpaved roads offsite.<sup>12</sup> CURE's air quality expert is evaluating several assumptions and calculations in the SAFC's analysis of air quality and GHG emissions that may render the conclusions about the significance of the Project's impacts on air quality and GHG emissions deficient. CURE is identifying potential data requests to the Applicant for additional information regarding the air quality and GHG emissions analysis for the Project.

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<sup>10</sup> *Ibid.*

<sup>11</sup> TN 254806.

## **II. MEET AND CONFER CERTIFICATION**

Counsel for CURE certifies that it participated in an all-party meet and confer held on August 2, 2024 to discuss the schedule and dates for the proceeding including, but not limited to, the close of discovery, the site visit and informational hearing, the filing of the PSA, evidentiary hearings, and the Commission hearing on the Final Decision.

## **III. PROPOSED SCHEDULE**

CURE understands the Applicant's desire for expedited processing of its SAFC but emphasizes the importance of setting a realistic schedule for this proceeding to avoid delays and repeated modifications to the schedule.

The filing of the SAFC essentially restarted the twelve (12) month certification process. The Project proposed in the prior AFC filing and evaluated in previous data requests has been significantly changed, including an entirely new location, and the SAFC supersedes the analysis and work performed on the previously proposed Project. CURE and its experts are expeditiously evaluating the SAFC, appendices, data adequacy filings, and data requests to date, but given the sheer volume of information, breadth of potential major issues identified above, and technical complexities presented by this Project, the 180-day discovery period pursuant to California Code of Regulations, title 20, § 1716(e) is appropriate and warranted. Although CURE will also make every effort to complete its discovery efforts ahead of the 180-day discovery period, CURE does not consider a shortened discovery

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<sup>12</sup> *Ibid.*



period to be reasonable or feasible. The 180-day timeframe will give CURE's experts time to complete their review, identify information and data to be requested from the Applicant, and file additional data requests if further information is needed based on Applicant's responses, even if the Applicant requests an extension of time to respond. It is CURE's intent to provide sufficient time for information gathering at the outset of this proceeding in order to make the remainder of the proceeding function more efficiently, particularly during the evidentiary hearing phase.

As discussed during the August 2 meet and confer, CURE appreciates Staff and the Applicant's willingness to schedule a site visit and informational hearing on the relocated and reconfigured Project. CURE agrees with the proposal to schedule this event sometime during the first week of September.

CURE also recommends that the schedule for the filing of the FSA and evidentiary hearing phase of the proceeding be evaluated after the close of the comment period on the PSA.<sup>13</sup> The timing for the FSA and evidentiary phase of this proceeding will be dictated in large part by the significant public health and environmental issues raised in the PSA comments and any additional information that may be provided during future workshop(s), if scheduled. Once PSA comments are received, Staff will need adequate time to

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<sup>13</sup> This approach is similar to the Committee's previous Scheduling Order, which stated that "The Committee will establish the schedule and dates for the evidentiary phase of the proceeding upon Staff's filing of the Final Staff Assessment." TN 245754. It is also consistent

review the comments and prepare written responses to comments that raise significant environmental issues pursuant to California Code of Regulations, title 20, § 1742(c), and Public Resources Code, § 21091(d)(2)(A). Evaluating the proceeding schedule after PSA comments are submitted also allows for a more accurate assessment of the format and schedule for the evidentiary hearing phase. At that point in the proceeding, the parties will have a better understanding of the key areas of dispute to inform the scope of evidentiary hearings.

CURE therefore requests that the Committee’s Scheduling Order directs Staff to either file an update in its monthly Status Report or file a separate statement after the close of the PSA public comment period that explains whether more than thirty (30) days will be needed to prepare the FSA and identifies any additional information that Staff may require prior to filing the FSA. The Committee should also provide the Applicant and CURE with fourteen (14) days to respond to Staff’s proposed schedule. Upon receiving this information from Staff, the Applicant, and CURE, a schedule with dates for the FSA and remainder of the proceeding can be more reasonably estimated.

Based on the foregoing discussion, CURE proposes the below schedule for the proceeding.

<b>Event</b>	<b>Date</b>
Amended Cover Letter and	March 8, 2024

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with scheduling orders in other AFC proceedings, e.g., Presiding Member’s Scheduling Order for the Elmore North Geothermal Project Proceeding, TN 252285, Docket 23-AFC-02.

Attestation of Completeness <sup>14</sup>	
Staff's Data Adequacy Completeness Determination <sup>15</sup>	July 16, 2024
Order Terminating the Suspension of the Proceeding	July 26, 2024
Deadline for Issues Identification Statements <sup>16</sup>	August 9, 2024
Monthly Status Reports filed by all parties <sup>17</sup>	August 26, 2024, and by the 26 <sup>th</sup> day of every month thereafter
Site Visit and Informational Hearing	Early September
Supplemental Discovery Closes: Last day for any party to request information	January 22, 2025
Staff files PSA	TBD
Public Comment Period Closes on PSA	At least 45 days after Staff files PSA
Staff files FSA	TBD
Last Day to File Petition to Intervene	TBD
Prehearing Conference	TBD
Evidentiary hearing(s)	TBD
Briefing	TBD
Committee Files Presiding Member's Proposed Decision (PMPD)	TBD
Public Comment Period Closes on PMPD	TBD
Committee Conference on PMPD	TBD
Commission Hearing on the Final Decision	July 2025

Dated: August 9, 2024

Respectfully submitted,

/s/ Tara C. Rengifo

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<sup>14</sup> TN 254951.

<sup>15</sup> TN 257763.

<sup>16</sup> TN 258022.

<sup>17</sup> *Ibid.*

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