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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 Response to Motion for
Committee Scheduling Conference**

I. INTRODUCTION

On August 12, 2024, the California Energy Commission received a *Motion for Committee Scheduling Conference* from the project applicant. In the Motion, the applicant requests the Committee to issue an Order setting a Scheduling Conference as soon as possible and affirm in the interim that the parties continue forward with discovery and all other aspects of the proceeding.

Under California Code of Regulations, title 20, section 1211.5, responses to motions must be made within 14 days of filing, and the presiding member shall rule on the motion within 30 days of filing, or a later deadline established by the presiding member. A scheduling order is a discretionary matter and no ruling by the presiding member is required. If no ruling is made on the motion within 30 days, or by the established later deadline, the motion is considered denied. A schedule for the prehearing phase of the proceeding will be established by the presiding member no later than 15 days after the last informational meeting, although a scheduling conference is customarily held as part of the initial public hearing. (Cal. Code Regs., tit. 20, § 1709.7.)

II. LEGAL ARGUMENT

Staff does not believe it is necessary to hold a separate scheduling conference. The filings submitted by the three parties (the applicant, CEC staff, and CURE) provide the Committee with all the information necessary to issue a scheduling order. All three parties filed Issue Identification Statements and proposed schedules on August 9, 2024 (TNs 258407, 258428, and 258444).

However, if the Committee chooses to hold a scheduling conference, a public conference held remotely would be sufficient in lieu of holding the scheduling conference in person at the initial public informational hearing.

As filings submitted by the three parties reveal, staff and CURE do not see a likely path forward to shorten the time permitted to complete discovery and, following that, the Preliminary Staff Assessment (PSA). Specifically, additional data sufficiency issues have

arisen that have not been addressed by the applicant. A primary point of concern from Staff is the lack of data regarding the potential permitting determinations by the Regional Water Quality Control Board. The applicant omitted any data regarding these permitting issues by denying that any permits from the Regional Water Quality Control Board were needed. (TN 256622.) Holding an earlier scheduling conference would not speed up the process.

Staff notes that the applicant seeks a scheduling order that requires a PSA be published prior to the close of discovery. Given the current data sufficiency issues, such a rule would require full assessment, analysis and publication of staff conclusions before staff has all of the necessary information. This process would harm the public by potentially providing less than complete information and analysis in a limited time frame. Staff's efforts to publish bifurcated or partial PSAs have led to delays in AFC proceedings in the past. The sooner applicant provides staff with all necessary information, the sooner staff can complete the analysis and publish the PSA. For this reason, any order shortening the discovery period from the time provided in the regulation is not needed or helpful to a complete analysis and full public participation.

Staff continues to move forward with discovery and other aspects of the proceeding. Staff filed Data Request Set 1 on July 26, 2024, which included data requests covering the following technical areas: Alternatives, Cultural and Tribal Cultural Resources, and Socioeconomics. Staff filed Data Request Set 2 on August 22, 2024, which included data requests covering the following technical areas: Air Quality; Hazardous Materials and Wildfire; Land Use, Agriculture, and Forestry; Public Health; and Transportation. Staff has also started drafting additional data requests which will cover additional technical areas. Engagement with the Regional Water Quality Control Board has also begun.

III. CONCLUSION

Staff does not believe it is necessary to hold a scheduling conference separate from the impending Informational Hearing and site visit. If the Committee chooses to hold a scheduling conference, a remotely accessible public conference would be sufficient in lieu of holding this conference in person at the public meeting. Multiple scheduling conferences would not be an efficient use of time for staff, the committee, or the public. A single scheduling conference is acceptable to Staff. The Committee also has sufficient information to establish a schedule from the filings without the need for any scheduling conference.

Dated: August 26, 2024

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT
COMMISSION

By: _____
Attorney for Staff