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STATE OF CALIFORNIA — NATURAL RESOURCES AGENCY

Gavin Newsom, *Governor*

CALIFORNIA ENERGY COMMISSION

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CEC-70 (Revised 7/22)



IN THE MATTER OF:

Willow Rock Energy Storage Center

Docket No. 21-AFC-02

COMMITTEE'S THIRD REVISED SCHEDULING ORDER

This Third Revised Scheduling Order is prepared by the Committee¹ in this proceeding in response to missed deadlines that were set in the Second Revised Scheduling Order² for the prehearing and evidentiary phase of the Application for Certification (AFC) proceeding for the Willow Rock Energy Storage Center (Willow Rock). As discussed below, the Committee establishes this revised schedule pursuant to California Code of Regulations, title 20, section 1709.7(c) with the firm expectation that the Parties meet all dates and deadlines.

RELEVANT BACKGROUND

On December 3, 2024, GEM A-CAES LLC (Applicant) filed a Motion to Amend, seeking to advance the deadlines for the post-discovery phase of the Willow Rock AFC. Pursuant to the instructions in the Order Granting in Part and Denying in Part Applicant's Motion to Amend and Revised Scheduling Order filed on December 11, 2024 (Second Revised Scheduling Order),³ the Committee set dates and deadlines for the remainder of this proceeding, including dates for the publication of the Preliminary

¹ On March 10, 2023, the CEC amended its designation of a committee consisting of Andrew McAllister, Commissioner and Presiding Member, and Noemí Gallardo, Commissioner and Associate Member, to preside over any proceedings arising from the Application. [TN 249087](#). This and all other documents related to this proceeding may be found in the [online docket](#) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-AFC-02>.

² See attachment to TN 260601.

³ TN 259084.

and Final Staff Assessments, for public comment and written testimony by the Parties, and for the Evidentiary Hearing on June 30, 2025 and July 1, 2025.

The CEC Staff (Staff) missed the March 13, 2025, deadline to publish a complete Preliminary Staff Assessment (PSA) without first seeking relief in a stand-alone motion or providing evidence of best efforts to meet and confer with the Parties.

DISCUSSION

In its status report filed February 26, 2025, Staff identified certain information that might impact the ability to file a complete PSA on time and stated that they anticipated requesting an extension of the PSA due date. Specifically, Staff described information sought after the discovery deadline of January 13, 2025, including: 1) biological information related to the incidental take applications for burrowing owl and Crotch's bumble bee, 2) information related to the potential jurisdiction of the Division of Safety of Dams (DSOD) over the compensation reservoir, 3) waste discharge requirements from the Lahontan Regional Water Quality Control Board, and 4) the completed Phase II excavation and revised Cultural Resources Report. As of April 2, 2025, no motion for an extension of time was made.

On March 13, 2025 – the deadline for the PSA and commencement of the 45-day public comment period – Staff filed a “Partial Preliminary Staff Assessment.”⁴ The document includes an analysis of a “limited subset of sections” for environmental analysis and an engineering evaluation. Staff stated that it “anticipates publishing a complete PSA soon, and initiating a public comment period immediately thereafter.”⁵ In its status report filed March 26, 2025, Staff continued to unilaterally declare when it would file a complete PSA (“by late April”) and when and how long the public comment period will be.⁶

This directly conflicts with the Committee's Second Revised Scheduling Order, which set March 13, 2025, as the deadline for a complete PSA, and also set a 45-day public comment period running from March 14, 2025, through April 28, 2025. No party has the delegated authority to override the Committee's orders. These types of statements likely create confusion for other Parties and the public about the dates for public comment and the remainder of the schedule.

In response to the Applicant's Motion to Amend filed December 3, 2024, Staff recommended the Evidentiary Hearing to occur on June 30, 2025 and July 1, 2025.⁷ The Committee set those dates as

⁴ TN 262184.

⁵ The document includes analysis of Facility Reliability, Transmission System Engineering, Efficiency and Energy Resources, Noise and Vibration, and Transmission Line Safety. All other sections required for analysis are marked-up in “strike-out” font on the Table of Contents. TN 262184, p 1-1.

⁶ TN 262429.

⁷ TN 260584.

firm dates for the Evidentiary Hearing in the Second Revised Scheduling Order, based on several factors, including Staff's suggestion, the joint availability of the Committee members, the importance of keeping the AFC proceeding well on track towards a final decision, and the Applicant's indicated interest in obtaining a CEC decision by the end of 2025. The dates for the Evidentiary Hearing and other key procedural dates were set to provide certainty about the schedule.⁸ The dates for the Evidentiary Hearing dates will remain on calendar for the same week as previously scheduled, with a slight adjustment to accommodate the Committee's schedule.⁹

To account for the belated PSA, the Committee will adjust the dates prior to the Evidentiary Hearing to ensure that the staff assessments are timely published and the Parties' legal briefs and prehearing conference statements are prepared in advance of the hearings. To stay on track, the Committee will need to reduce the public comment period from 45 days to 30 days. The Committee notes that the public will have further opportunities to comment on the evidence in the record and the proposed decision, all which will be considered before the Commission issues a final decision.

The Committee reminds the Parties to abide by the dates and deadlines in this Third Revised Scheduling Order. For the PSA and FSA, if Staff does not have sufficient information to complete an analysis of the potential impacts on the environment or public safety, the discussion in the assessment shall identify what information is missing, describe the chronology of Staff's attempts to obtain the information, and explain the impact of the missing information on Staff's ability to determine whether there are significant impacts from the project or mitigation to lessen the impacts to a level below significant. In addition, while Applicant's concerns about ongoing information requests are understood, it is important to consider the implications of an incomplete evidentiary record on the Commission's ability to make legally required findings and an ultimate decision on the certification of the Willow Rock Energy Storage Center. Given the recent filing of the Phase II Cultural Resources Report and decisions to eliminate the evaporation pond and submit applications for

⁸ As noted by the Committee in the Second Revised Scheduling Order, the dates following the evidentiary hearing are not possible to affix with certainty due to the inability to forecast at this time whether post-hearing briefing of any issues will be necessary. Additionally, the Committee lacks the authority to direct the Commission to render a final decision on a date certain.

⁹ In its March 25, 2025, Status Report, Applicant repeated its interest that "[i]t remains imperative that the CEC issue a Final Decision in 2025." (TN 262357.) The Committee appreciates Applicant's interest in timing and continues to endeavor to reach a decision in a reasonable timeline and with Applicant's request in mind. The Committee further appreciates that Staff is diligently working to meet the scheduling deadlines, and that it needs substantial evidence to finalize its analyses and recommendations as to whether the proposed project should be approved. Balancing these competing interests, the Committee is not inclined to significantly reschedule the Evidentiary Hearing dates unless Staff and the Applicant jointly request and agree to an amendment to the scheduling order.

incidental take for the burrowing owl and Crotch's bumble bee, it seems as though the information requests are essential for a complete staff analysis.

SCHEDULING ORDER

1. The Committee hereby adopts the Third Revised Scheduling Order for the Supplemental AFC for the Willow Rock proceeding as attached below. The Committee encourages the Parties to make their best efforts to complete the deliverables ahead of these dates.
2. **The CEC Staff shall publish the Preliminary Staff Assessment and Final Staff Assessment no later than 5:00 p.m. on the dates set herein.** If the Staff lacks sufficient information to complete any resource analysis, the discussion in the assessment shall identify what is missing, describe the chronology of Staff's attempts to obtain the information, and explain the impact of the missing information on Staff's ability to determine whether there are significant impacts from the project or mitigation to lessen the impacts to a level below significant.
3. The Committee herein sets the due dates for deliverables or key events up through the Evidentiary Hearing. Formal notice and instructions for the Parties' Opening and Reply Briefs, Prehearing Conference, and Evidentiary Hearing will issue separately.
4. Dates and timelines following the Evidentiary Hearing reflect all minimum public comment and review periods for the CEC's certified regulatory program. The dates indicated for the release of the Presiding Member's Proposed Decision (PMPD), Commission hearing, and adoption of Commission's Final Decision are suggestions only and are not binding on the Committee or Commission.
5. The Committee may further modify the schedule at any time for good cause. If any Party determines after making a good faith effort that they cannot meet a deadline specified in this Revised Scheduling Order or as otherwise required in CEC regulations, the Party shall notify the Committee as soon after reaching that conclusion as possible and file a written request as a stand-alone motion asking for modification of the schedule that explains the reasons the deadline cannot be met. Prior to filing any motions for extensions or relief from this Second Revised Scheduling Order, the Parties shall use best efforts to first meet and confer to resolve the moving party's dispute; failing that, the motion shall describe the attempt to meet and confer and recommend a resolution.
6. Notwithstanding the CEC regulations providing for responses to motions within 14 days of the service of motions, any and all responses to motions for modification of schedules or petitions to intervene shall be filed within seven days.

7. The Parties are hereby ordered to continue submitting monthly status reports no later than the 26th day of every month. Status reports shall inform the Committee whether the case is progressing satisfactorily and bring potential delays and other relevant matters to the Committee's attention.

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 to the assigned Hearing Officers:

- Reneé Webster-Hawkins, at renee.webster-hawkins@energy.ca.gov or (916) 237-2507.
- Ralph Lee, at ralph.lee@energy.ca.gov or (916) 776-3408.

Direct technical subject inquiries concerning the proceeding to the Project Manager:

- Eric Veerkamp, at STEPsiting@energy.ca.gov or (916) 661-8458.

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 [Willow Rock Energy Storage Center webpage](https://www.energy.ca.gov/powerplant/caes/willow-rock-energy-storage-center) at: <https://www.energy.ca.gov/powerplant/caes/willow-rock-energy-storage-center> or scan the following QR code:



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IT IS SO ORDERED.

Dated: April 2, 2025

Approved

J. Andrew McAllister, PhD
Commissioner and Presiding Member
Willow Rock Energy Storage Center
AFC Committee

Dated: April 2, 2025

Approved

Noemí Otilia Osuna Gallardo
Commissioner and Associate Member
Willow Rock Energy Storage Center
AFC Committee

**WILLOW ROCK ENERGY STORAGE CENTER
(21-AFC-02)
THIRD REVISED SCHEDULING ORDER¹⁰
April 3, 2025**

EVENT	<i>Third Revised Schedule</i>
Discovery closes: Last day for any party to request information in a Data Request	January 13, 2025¹¹
Last day for Applicant to submit Data Responses	January 27, 2025 15 days after last Data Request ¹²
Staff deadline to file Preliminary Staff Assessment	April 16, 2025 Staff shall publish a complete document.
Public Comment Period Closes on Preliminary Staff Assessment	May 16, 2025 30 days after deadline for the Preliminary Staff Assessment ¹³
Last Day to File Petition to Intervene	May 23, 2025 7 days after deadline for comments on the Preliminary Staff Assessment ¹⁴
Last Day to File Objection to any Petition to Intervene	May 30, 2025 7 days after filing of Petition to Intervene ¹⁵

¹⁰ This Revised Scheduling Order documents past events and dates for a complete record of key events germane to the discovery, evidentiary, and decisional timelines.

¹¹ "All requests for information shall be submitted no later than 180 days from the date the commission determines an application is complete, unless the committee allows requests for information at a later time for good cause shown." (Cal. Code Regs., tit. 20, § 1716(e).)

¹² The usual 30-day timeframe to submit data responses may be changed by committee order. (Cal. Code Regs., tit. 20, § 1716(f).)

¹³ Staff's preliminary environmental assessment shall be subject to at least a 30-day public comment period. Prior schedules which included a 45-day public comment period reflected the Committee's discretion to extend the public comment period. Regrettably it must be shortened to the regulatory minimum due to the belated PSA. (Cal. Code Regs., tit. 20, § 1742(c).)

¹⁴ The deadline to file a petition for intervention shall be established by the Presiding Member, or if no deadline is established, at least 30 days prior to the first day of the evidentiary hearing. (Cal. Code Regs., tit. 20, § 1211.7(b).)

¹⁵ Motions shall be filed and responded to according to a schedule established by the presiding member. In the absence of such a schedule, responses to motions shall be filed within 14 days of the service of the motions." (Cal. Code Regs., tit. 20, § 1211.5.)

Staff Files Final Staff Assessment	May 30, 2025 14 days after deadline for comments on the Preliminary Staff Assessment ¹⁶
Parties File Opening Testimony	June 6, 2025
Parties File Rebuttal Testimony	June 13, 2025
Parties File Prehearing Conference Statements	June 16, 2024
Prehearing Conference	June 23, 2025
Evidentiary Hearing	July 2, 2025 and July, 3, 2025¹⁷
Closing Briefs (if needed)	To be determined
Committee Files Presiding Member's Proposed Decision (PMPD)	Tentatively September 2025 ¹⁸
Public Comment Period Closes on PMPD	30 days after filing of the PMPD ¹⁹
Commission Hearing on the Final Decision	To be determined
PMPD Errata filed if necessary	To be determined
Final Decision Issued	Tentatively November 2025

¹⁶ After the close of the public comment period, Staff shall file the Final Staff Assessment. (Cal. Code Regs., tit. 20, § 1742(c).)

¹⁷ The final staff assessment shall be filed at least 14 days before the first evidentiary hearing. (Cal. Code Regs., tit. 20, § 1742(c).)

¹⁸ All dates and timelines following the Evidentiary Hearing are estimates only, and not binding on the Committee or Commission, with the exception of the minimum 30-day public comment period following the filing of the PMPD.

¹⁹ The presiding member shall set a comment period of at least 30 days from the date of filing. (Cal. Code Regs., tit. 20, § 1745.5(c).)