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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

**INTERVENOR CALIFORNIA UNIONS FOR RELIABLE ENERGY'S
RESPONSE TO MOTION SEEKING NEW SCHEDULING ORDER**

April 9, 2025

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INTRODUCTION

On April 4, 2025, the California Energy Commission (“CEC”) Committee presiding over this proceeding issued its Notice of Status Conference,¹ which includes a directive that no later than April 9, 2025, all parties are to submit a response to CEC Staff’s Motion Seeking a New Scheduling Order (“Staff’s Motion”).² Intervenor California Unions for Reliable Energy (“CURE”) hereby submits this response in support of Staff’s Motion. As compared with the schedule set forth in the Committee’s Third Revised Scheduling Order,³ Staff’s proposed schedule would (1) give Staff additional time necessary to submit a complete Preliminary Staff Assessment (“PSA”) and evaluate and respond to public comment in preparing a Final Staff Assessment; (2) provide a 45-day public review and comment period necessary for the public, public agencies and intervenors to evaluate and comment on this complex Project; and (3) allow the CEC to issue its Final Decision in calendar year 2025, as urged by the Applicant.

DISCUSSION

The Third Revised Scheduling Order would require Staff to file the PSA on or before April 16. Staff’s Motion asserts that due to ongoing efforts to obtain and evaluate information from the Applicant and State agencies, including information regarding wastewater management, cultural and tribal resources, and the Project’s compensation reservoir, it needs additional time

¹ TN 262592.

² TN 262571.

to prepare and file the PSA. Staff's Motion proposes to publish the complete PSA on April 30, 2025, only 14 days after the deadline set forth in the Third Revised Scheduling Order. In its Notice of Status Conference, the Committee recognizes that in requiring Staff to publish a complete PSA on April 16, Staff may lack sufficient information to complete certain resource analyses and to determine whether the Project will have significant impacts or require mitigation.⁴ As Staff's Motion anticipates that it will be able to file a complete PSA by April 30, CURE respectfully submits that the benefits of a complete PSA greatly outweigh any benefit of requiring that a potentially incomplete PSA be issued two weeks earlier. CURE further submits that no party will be prejudiced by extending the deadline for publication of a complete PSA to April 30, 2025.

With respect to the public comment period, CURE strongly urges the Committee to adopt Staff's proposed schedule, which would retain the 45-day public review and comment period that has been included in all prior scheduling orders in this proceeding. The Third Revised Scheduling Order would truncate the public comment period to 30 days, which would significantly impact the ability of interested parties, including CURE, to evaluate and, if needed, comment on this complex Project. CURE has retained experts to evaluate the Project's impacts in resource areas including air quality, hazards, biological resources, noise, and hydrogeological and

³ TN 262562.

⁴ TN 262592, pg. 3.

water resources. With the assistance of these experts, CURE has submitted numerous data requests in each of these areas. However, of those issue areas, the Partial PSA only includes Staff's analysis of noise impacts. The Final PSA will therefore address for the first time Staff's assessment of the Project's air quality, hazards, biological resources, hydrogeological and water resources impacts, among many others. Release of the PSA will require detailed review by and coordination among CURE's experts (a process which may be complicated if Staff is unable to publish a complete PSA by the April 16 deadline). Shortening the PSA public comment period will negatively impact the ability of CURE and its experts, as well as public agencies and other interested parties, to evaluate and, if needed, provide comments on the Project's environmental impacts and proposed mitigation measures. Again, restoring a 45-day public comment period from the current 30-day period is critical to protect the right to public participation in this proceeding, and will not prejudice any party.

In reducing the public comment period from 45 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."⁵ However, a later opportunity to comment at the evidentiary stage and after a proposed decision is released is no substitute for a more complete and informed FSA that considers and incorporates all public comment prior to the evidentiary stage and ultimate decision. CURE respectfully submits that maintaining

the 45 day comment period on the PSA will result in a more efficient and complete evidentiary proceeding and ultimate decision-making.

Finally, granting Staff's Motion does not necessarily conflict with the Committee's (and Applicant's) goal of issuing a final decision before the end of calendar year 2025. Staff's proposal for evidentiary hearings in mid-August 2025 would allow for issuance of the Presiding Member's Proposed Decision ("PMPD"), the required 30-day PMPD comment period, and issuance of a final decision prior to the end of the year. The Third Revised Scheduling Order includes flexibility and estimates of the post-evidentiary hearing deadlines; these deadlines can be adjusted to accommodate Staff's request for 14 additional days to publish the full PSA and to retain a 45-day comment period, and still satisfy Applicant's request for a final decision by the end of 2025.

In short, CURE submits that Staff's Motion allowing for additional time for publication of the PSA, public comment and publication of the FSA will ultimately allow for a more efficient evidentiary proceeding and better informed decision-making by the Committee. For all of the foregoing reasons, CURE respectfully requests that the Committee grant Staff's Motion.

⁵ TN 262562, pg. 3.

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Respectfully submitted,

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