DOCKETED

Docket Number:	07-AFC-02
Project Title:	San Gabriel Generating Station
TN #:	202374
Document Title:	Applicant's Request for Additional Suspension
Description:	N/A
Filer:	Lisa A. Cottle
Organization:	Winston & Strawn LLP
Submitter Role:	Intervenor Representative
Submission Date:	5/23/2014 1:19:49 PM
Docketed Date:	5/23/2014

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

Application for Certification for the San Gabriel Generating Station	Docket No. 07-AFC-2

NRG SAN GABRIEL POWER GENERATION LLC
REQUEST FOR ADDITIONAL SUSPENSION

May 23, 2014

Lisa A. Cottle
Winston & Strawn LLP
101 California Street, Suite 3900
San Francisco, California 94111
Telephone: (415) 591-1579
Facsimile: (415) 591-1400
lcottle@winston.com

Attorneys for NRG San Gabriel Power Generation LLC

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

Application for Certification for the San Gabriel Generating Station	Docket No. 07-AFC-2

NRG SAN GABRIEL POWER GENERATION LLC
REQUEST FOR ADDITIONAL SUSPENSION

In accordance with Section 1716.5 of the regulations of the California Energy Commission ("Commission"), NRG San Gabriel Power Generation LLC ("San Gabriel") requests an additional twelve month suspension of this proceeding. This proceeding addresses San Gabriel's application for certification of the San Gabriel Generating Station (the "San Gabriel Project"), a 696 megawatt natural gas-fired electricity generating facility to be located at the site of an existing power plant in Rancho Cucamonga, California, within the jurisdiction of the South Coast Air Quality Management District ("SCAQMD"). The Commission previously granted suspensions of this proceeding, most recently in an order dated May 30, 2013. The current suspension expires May 30, 2014.

San Gabriel requested the previous suspensions due to permitting difficulties associated with the unavailability within the South Coast Air Basin of emission offsets needed to satisfy applicable SCAQMD rules. Those permitting difficulties still exist and emission offsets are still not available for the San Gabriel Project, as explained below.

When the application was filed, San Gabriel intended to access SCAQMD "Priority Reserve" credits pursuant to SCAQMD Rule 1309.1 (as amended on August 3, 2007) as the source of offsets for PM_{10} and SOx. SCAQMD Rule 1309.1 as so amended would have allowed the use of the Priority Reserve credits for power plant projects such as the San Gabriel Project, as reflected in the SCAQMD's Preliminary Determination of Compliance ("PDOC") in this proceeding. In the PDOC, the SCAQMD concluded that the San Gabriel Project would comply with applicable requirements to be qualified to access Priority Reserve credits. Since that time, however, SCAQMD Rule 1309.1 (as amended on August 3, 2007) was challenged in court and the SCAQMD has not pursued a rulemaking that would allow power plant projects to access Priority Reserve credits. Priority Reserve credits are not available to the San Gabriel Project.

Given the unavailability of the Priority Reserve credits, it is necessary to pursue alternative sources of emission offsets. Unfortunately there are few options for power plants located in the South Coast Air Basin. The Legislature recognized this problem in Assembly Bill 1318 ("AB 1318"), which requires the State Air Resources Board ("ARB"), in consultation with this Commission, the California Public Utilities Commission ("CPUC"), the California Independent System Operator, and the State Water Resources Control Board, to prepare a report for the Governor and Legislature that evaluates the electrical system reliability needs of the South Coast Air Basin. The report was intended to include recommendations for meeting those reliability needs while ensuring compliance with state and federal law. If additional fossil fueled electricity generation facilities are needed, the report was intended to include recommendations for long-term emission offsets availability and options to ensure sustainable permitting of additional needed capacity. This requirement reflects the unavailability of emission offsets for power plants under SCAQMD's current program, and recognizes that acquiring offsets from other sources is "a challenging task given the scarcity and exorbitant price of private market emission reduction credits in the SCAQMD."[1]

The AB 1318 effort has been underway since 2010, and a draft report, titled *Assembly Bill 1318: Assessment of Electrical Grid Reliability Needs and Offset Requirements in the South Coast Air Basin Coast Air Basin* ("Draft AB 1318 Report") was released for public comment in October 2013. The Draft AB 1318 Report indicates that the SCAQMD's current permitting program, through its Rule 1304, is able to address the offsets obligation for existing gas-fired units in the South Coast Air Basin that utilize once through cooling ("OTC") technology and plan to comply with OTC regulations by repowering with non-OTC technology.[2]
Rule 1304(a)(2) provides an exemption to the requirement to provide offsets for the replacement of an electric steam utility boiler with more efficient or advanced technology, provided that the replacement project does not increase basinwide generating capacity. Although utility boiler replacements are exempt from offset requirements, the SCAQMD still provides such offsets from its internal offset bank in a quantity equal to the potential to emit of the replacement gas turbine capacity.[3]

---

[1] Draft Work Plan for the *Assessment of Electrical System Reliability Needs in South Coast Air Basin and Recommendations on Meeting those Needs*, prepared by the Interagency AB 1318 Technical Team (January 2011), p. 3.

[2] Draft AB 1318 Report, pp. iii-iv.

[3] *See id*., pp. 55-56.

The Draft AB 1318 Report suggests that the SCAQMD internal bank could supply the necessary offsets for OTC replacement units with compliance dates through 2020.[4] However, the Draft AB 1318 Report indicates that for new capacity that is not linked to retirement of existing steam boiler facilities (and therefore not eligible for Rule 1304), the only options available under the current permitting system include purchasing offsets from other sources or funding emission reduction projects to generate their own offsets.[5] The Draft AB 1318 Report also finds that drawing from the internal offset bank to support only projects eligible for Rule 1304 treatment is not a sustainable permitting option for the long-term, and recommends that, given the amount of time required to obtain the necessary approvals to build new power plants, and the expectation that new generation will be required at some point past 2022, the ARB should partner with the SCAQMD to form a working group that will identify options and make recommendations at the earliest practicable date to address long-term permitting needs.[6]

These recommendations show that more time is needed to develop a strategy for developing offsets to support San Gabriel. San Gabriel offers the potential to provide a source of flexible generating capacity to support system needs, but it is not designed to replace OTC units facing a compliance deadline. Given its limited options, San Gabriel is evaluating a potential solution that involves the retirement of the existing 640 MW Etiwanda Generating Station, which is a non-OTC steam boiler facility owned and operated by a San Gabriel affiliate, in order to utilize the offset exemption provided in SCAQMD Rule 1304(a)(2). Replacement of the Etiwanda Generating Station would provide an offset exemption for up to 640 MW of replacement capacity. Utilizing this exemption, the San Gabriel Project would need to obtain offsets for only the incremental 56 MW above the 640 MW exempt level. However, the Etiwanda Generating Station is fully contracted to provide summer resource adequacy capacity through 2015, and the implications for electric reliability of retiring the Etiwanda Generating Station have not been fully evaluated and would require careful consideration by policymakers.

San Gabriel also continues to look for contracting opportunities that would support development of the San Gabriel Project. An additional twelve month suspension would allow more time for that effort. The CPUC is evaluating the need for new flexible generating resources in its long term procurement plan ("LTPP") process. In the last LTPP proceeding, the CPUC

---

4 *Id.*, pp. iii-iv.

5 *Id*, p. 56.

6 *Id.*, p. v.

directed Southern California Edison Company to procure new electrical capacity to meet local reliability needs in its service territory. A new LTPP proceeding is underway that is considering the need for flexible generating capacity and other resources to meet long-term reliability needs. The LTPP process may lead to additional contracting opportunities for the San Gabriel Project.

The San Gabriel Project would provide capacity and energy that could be used to serve reliability needs in Southern California while offering benefits associated with the use of an existing power plant site, avoiding the need to construct significant new electric transmission or natural gas pipeline lateral facilities. The San Gabriel Project also would meet the objectives of the SCAQMD's 2011 "Air Quality-Related Energy Policy," which promotes clean energy technologies and "recognizes that fossil fuel electricity generation will still be needed in the Basin to complement projected increased use of renewable energy sources."[7] In light of these benefits, the San Gabriel Project should be well suited to meet reliability and capacity needs, and to provide other services necessary to operate and maintain the system.

Because the ongoing planning processes could lead to competitive solicitations for new capacity, San Gabriel asks the Commission to keep the San Gabriel Project in suspension to reflect its continued status as a project that is in development and available for contracting. Any determination that could be construed as a termination or cancellation of the San Gabriel Project would be contrary to San Gabriel's intent to continue to pursue its development, and would send the wrong signal to potential buyers of the San Gabriel Project's output.

For these reasons, San Gabriel requests that this proceeding be suspended for an additional twelve months. San Gabriel would continue submitting suspension status reports according to any schedule established by the Commission. San Gabriel appreciates the Commission's consideration of this request.

May 23, 2014

Respectfully submitted,

Lisa A. Cottle
Winston & Strawn LLP

Attorneys for NRG San Gabriel Power Generation LLC

[7] SCAQMD *Air Quality-Related Energy Policy* (September 9, 2011).

SF:373249.3