

## DOCKETED

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**Via Email & E-File**

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Re: Initial CURE Comments on Inland Empire Energy Center Project  
Amendment (01-AFC-17C)

Dear Mr. Rundquist:

We are writing on behalf of California Unions for Reliable Energy (“CURE”) regarding Inland Empire Energy Center LLC’s petition to modify the Inland Empire Energy Center Project (“Project Amendment”). Because the Project Amendment may result in significant effects on the environment and includes a request for modification of the conditions of certification from the Commission’s final decision on the previously approved project, this petition must be processed as a significant amendment to the decision and must be approved by the full Commission.<sup>1</sup>

CURE is currently reviewing the petition and provides the following preliminary recommendations for the Commission’s consideration:

1. The Commission should confirm that it will process the proposed Project Amendment as a significant amendment requiring approval by the full Energy Commission and compliance with the Article 3 requirements for an application proceeding.

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<sup>1</sup> 20 Cal. Code Regs. §1769(a)(3).

2. The Commission should prepare an environmental review document for the proposed Project Amendment pursuant to its certified regulatory program.<sup>2</sup>
3. The Commission should adopt a schedule that provides adequate time for parties to obtain information and for the public to engage in meaningful review.

**I. The Commission Should Confirm that It Will Process the Petition to Modify the Inland Empire Energy Center Project as a Significant Amendment that Requires Compliance with the Article 3 Requirements for an Application Proceeding**

Because the Project Amendment is significant, the petition must be processed as a formal amendment to the decision and must be approved by the full commission at a noticed business meeting or hearing.<sup>3</sup> Under Commission regulations, a modification may only be considered insignificant and approved without full Energy Commission approval if:

- The modification will have no significant effect on the environment;
- The change would not affect conditions adopted by the Energy Commission in the final decision;
- The changes will not affect a plant's compliance with laws, ordinances, regulations, or standards; and
- There are no objections to staff's determination that the proposed change is insignificant.<sup>4</sup>

Here, the Project Amendment proposes substantial modifications to the project design by removing an existing gas turbine and installing a new gas turbine.

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<sup>2</sup> 20 Cal. Code Regs. §§ 1700 *et seq.*

<sup>3</sup> 20 Cal. Code Regs. § 1769, subds. (a)(2) & (a)(3).

<sup>4</sup> 20 Cal. Code Regs. § 1769, subds. (a)(2).

In addition, the modification may result in significant construction emissions and may result in increased operational emissions from the power plant when compared to baseline conditions as defined under the California Environmental Quality Act (“CEQA”). The Project Amendment also seeks to change conditions of certification.<sup>5</sup> Accordingly, the Project Amendment must be processed as a significant amendment and the petition may only be approved by the full Energy Commission at a noticed business meeting.<sup>6</sup>

Project amendments fall within the ambit of the Commission’s Article 3 regulations for an application proceeding.<sup>7</sup> As a result, the Petition must also comply with the requirements set forth in Article 3 for an application proceeding, including, but not limited to, requirements for environmental review, review of compliance with LORS, evidentiary hearings, a presiding member’s proposed decision, comment periods, post certification amendments and changes, and compliance verification.<sup>8</sup>

## **II. The Commission Should Prepare an Environmental Review Document Pursuant to Its Certified Regulatory Program**

The Commission should prepare an environmental review document, pursuant to its certified regulatory program, as set forth in its site certification regulations, for the proposed Project Amendment. Section 1769 of the Commission’s regulations requires “analysis of the impacts the modification may have on the environment.”<sup>9</sup>

Based on our initial review, the Project Amendment proposes changes to the Project that may result in significant environmental impacts due to demolition

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<sup>5</sup> Inland Empire Energy Center Petition to Amend Turbine Replacement Project, 01-AFC-17C, TN # 203178 (Oct. 7, 2014), at Appendix E, p. 5 (proposed modification to AQ-17), 8 (proposed modification to AQ-34), 18 (proposed modifications to AQ-SC-16 & AQ-SC-17 and proposed new condition AQ-SC-18), 33 (proposed modification to Noise-6), 41 (proposed modifications to Struc-1 and Struc-2), 42 (proposed modifications to Trans-1 and Trans-2).

<sup>6</sup> 20 Cal. Code Regs. § 1769, subds. (a)(3).

<sup>7</sup> 20 Cal. Code Regs. § 1769.

<sup>8</sup> 20 Cal. Code Regs. §§ 1741-1770.

<sup>9</sup> 20 Cal. Code Regs. § 1769(a)(1)(E).

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activities and construction and installation of a new turbine. These are activities and impacts that were not previously disclosed, discussed or examined.

Removing the existing turbine and the installing a new turbine will result in potentially significant construction emissions, including dust emissions and diesel exhaust emissions that may pose hazards to nearby residents and may result in significant air pollution impacts. In addition, installing a new turbine may result in substantial new greenhouse gas, NO<sub>x</sub>, PM and VOC operational emissions that are well above the existing baseline emissions. The application also appears to rely on inapplicable mitigation measures to address these air quality impacts, including offsets that were used for previous equipment installations and thus are already part of the existing baseline. The application also fails to provide any surveys or modeling to demonstrate that construction activities will not result in any biological resource or traffic impacts.

CURE is continuing to review the petition and is considering data requests. Thus, the above examples are not exhaustive of the potential issues in this proceeding. However, based on our initial review, environmental review is required.

### **III. The Commission Should Adopt a Schedule That Provides Adequate Time for Parties to Obtain Information and for the Public to Engage in Meaningful Review of the Project Amendment**

Any application for any site and related facility within the jurisdiction of the Commission must comply with the requirements set forth in the Commission's site certification regulations. Due to the Project Amendment's potential for significant environmental impacts, CURE requests that a public workshop be held. CURE also requests that the Commission adopt a schedule that provides adequate time for parties to obtain information and public to engage in meaningful review of the project, including each of the steps provided in the Commission's regulations for a site certification proceeding.

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#### **IV. Conclusion**

CURE appreciates in advance the Commission's consideration of these comments and recommendations.

Sincerely,

*Original Signed by Thomas A. Enslow*

Thomas A. Enslow

TAE:lj1

cc: E-File, Docket 01-AFC-17C