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Docket Number:	12-AFC-02
Project Title:	Huntington Beach Energy Project
TN #:	203428
Document Title:	Transcript of the October 22, 2014 Committee Conference on Revised Presiding Member Proposed Decision
Description:	N/A
Filer:	Cody Goldthrite
Organization:	Energy Commission Hearing Office
Submitter Role:	Committee
Submission Date:	12/10/2014 1:22:20 PM
Docketed Date:	12/10/2014

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

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HUNTINGTON BEACH ENERGY PROJECT
COMMITTEE CONFERENCE ON

REVISED PRESIDING MEMBER PROPOSED DECISION

DOCKET NO. 12-AFC-02

Wednesday, October 22, 2014

1:00 p.m.

California Energy Commission

1516 Ninth Street

Third Floor Fishbowl Conference Room

Sacramento, California

Reported by: WENDY E. ARLEN, CSR #4355, RMR, CRR

COMMISSIONERS:

ANDREW McALLISTER, Presiding Member

KAREN DOUGLAS, Associate Member

ADVISORS:

PAT SAXON, Advisor to Commissioner McAllister

JENNIFER NELSON, Advisor to Commissioner Douglas

CHRISTINE STORA, Advisor to Commissioner Douglas

EILEEN ALLEN, Commissioners' Technical Advisor

PUBLIC ADVISOR:

ALANA MATTHEWS

HEARING OFFICER:

SUSAN COCHRAN

STAFF:

FELICIA MILLER

APPLICANT:

KRISTEN CASTANOS, Esq. (Telephonically)

INTERVENORS:

MONICA RUDMAN

JASON PYLE (Telephonically)

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PROCEEDINGS

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COMMISSIONER DOUGLAS: I'm going to say a few things, and people on the phone can tell us if there's a problem. This is Commissioner Karen Douglas. I'm the associate member on this committee. Today, we are convening a committee meeting for the Huntington Beach Energy Project, and as explained in the October 9th, 2014, notice of availability of revised PMPD, today's committee meeting is being held to allow the committee to deliberate in a closed session.

So right now, Susan, could you just unmute and let's ask if that was audible. So somebody on the phone could you please speak up? Was the audio okay?

SPEAKER: That was clear.

COMMISSIONER DOUGLAS: So we'll start with introductions. I introduced myself. To my right is Pat Saxton. He's Commissioner McAllister's advisor. To his right is our hearing officer, Susan Cochran, and to my left are my advisors, Christine Stora and Jennifer Nelson. To the left of Jennifer Nelson is Eileen Allen. She's the technical advisor for Commissioners on Siting.

And let me ask now for the parties to introduce themselves.

1 Are there -- I'll start with Public Advisor.

2 Actually, Alana Matthews is here from the Public
3 Advisor's office.

4 Is there anyone here representing the
5 petitioner, AES Southland?

6 MS. CASTANOS: Kristin Castanos.

7 COMMISSIONER DOUGLAS: And staff?

8 MS. MILLER: Felicia Miller, staff project
9 manager for Huntington Beach Energy Project.

10 COMMISSIONER DOUGLAS: Intervenor Jason Pyle,
11 are you on the phone?

12 MR. PYLE: Yes, I am.

13 COMMISSIONER DOUGLAS: Thank you. And
14 intervenor Monica Rudman.

15 MS. RUDMAN: I'm here, yes.

16 COMMISSIONER DOUGLAS: Are any representatives
17 of federal, state or local government agencies here
18 today or on the phone?

19 Any officials representing Native American
20 tribes or nations?

21 All right. In that case we are through
22 introductions, and I'll turn this over to the hearing
23 officer.

24 HEARING OFFICER COCHRAN: Thank you. We're
25 here today, as Commissioner Douglas indicated, for a

1 closed session pursuant to Government Code Section 1126
2 subdivision (c)(3) which allows the committee to
3 deliberate on the revised Presiding Member's proposed
4 decision.

5 Before we go into closed session deliberations,
6 we are required to take public comment. So if anyone
7 has public comment, now is the time to do it. What will
8 then happen is we will go into closed session and then
9 at the end of closed session we will adjourn the
10 meeting.

11 So at this point I would ask whether anyone has
12 comments that they would like to make regarding the
13 reason that we're here today, the revised Presiding
14 Member's proposed decision, being mindful that we
15 received written comments from the applicant, from
16 staff, and resubmitted comments from Mr. Simpson on
17 behalf of Helping Hand Tools earlier today.

18 So, Mr. Stewart, I know that you called in.
19 You're caller user number three. Did you have anything
20 you wished to say?

21 MR. STEWART: Yes, I would like to make some
22 public comment.

23 HEARING OFFICER COCHRAN: Okay.

24 MR. STEWART: Shall I go ahead?

25 HEARING OFFICER COCHRAN: Yes, please.

1 MR. STEWART: Thank you. So I don't think that
2 this revised proposed decision is ready. It has a
3 number of errors of fact and then the findings are not
4 correct. Plus, it really makes it very clear that the
5 proposal is premature.

6 For example, on page 4-12, 4.1-12, you say
7 demand response and other distributed technologies have
8 clear potential to provide similar services in the
9 future. They're not presently available for, you know,
10 for sufficient scale. But clearly there is no need for
11 this plant at this time because of the fact that you
12 don't have an impact.

13 I mean, all the plants that the Commission has
14 approved, Sentinel and Willows and all those, are
15 clearly way exceeding the capacity and as Cal ISO just
16 reported this Monday that the peak demand even this hot
17 summer was still ten percent below the peak demand that
18 was reported by Cal ISO in 2006. It dropped from 50,000
19 megawatts to 45,000 megawatts this year.

20 So clearly there is no need. You're in a
21 system which is way, way over. You say here that you
22 only need a 15 to 17 percent excess capacity over peak
23 demand and the capacity, according to Cal ISO, is 30 to
24 40 percent over this peak demand.

25 So it's clear that your conclusions of law, et

1 cetera, talking about the fact that the operational
2 emissions will not pose a significant environmental
3 impact is obviously ridiculous. You know how many tons
4 of CO2 this is going to produce per year.

5 And then you shouldn't have ridiculous things
6 like, you know, the new natural gas power plant would
7 not interfere with generation from existing renewables
8 or within the integration. And clearly what you're
9 doing is you're clearly leaving an albatross stranded
10 asset here that is not going to be needed as more
11 renewables come on, or you're way loading up the rate
12 structure so that it makes it more expensive and more
13 difficult to bring more renewables online.

14 So you talk about how, you know, in 818 that
15 demand response had the potential to do this and that
16 the CPUC has begun a rulemaking and yet, you know, they
17 haven't finished the rulemaking. So why not wait a year
18 or so and then when they finish the rulemaking, it
19 should be very clear.

20 In fact, it's interesting that in other
21 divisions of AES as presented last week at the storage
22 conference in San Jose that they can actually produce
23 storage units for less a kilowatt hour than a current
24 gas peaker.

25 So it's clear that the Commission has not

1 looked at the alternatives, it has not looked at how to
2 minimize greenhouse gas production and it's not looked
3 at considering the loading order.

4 And I will submit written comments in addition.

5 HEARING OFFICER COCHRAN: Thank you very much.

6 Is there anyone else who would like to address
7 the committee with public comments? Mr. Pyle? Did you
8 have something you wish to say?

9 MR. PYLE: First similar to -- I have a
10 question first if I may ask.

11 (Interruption by the Reporter.)

12 HEARING OFFICER COCHRAN: Mr. Pyle, we couldn't
13 understand you. Can you speak up a little bit? I'm
14 going to mute Mr. Stewart at this point.

15 COMMISSIONER DOUGLAS: Are you on speaker
16 phone?

17 MR. PYLE: No, I'm not. I'm on a regular
18 phone.

19 COMMISSIONER DOUGLAS: You've got to speak
20 clearly and more slowly. That will be helpful.

21 MR. PYLE: I understand. I got a lot of
22 feedback from your side also.

23 My question is this before I begin. Will I,
24 and may I, be permitted to speak at public comment and
25 then also may I speak in closed comment? As an

1 intervenor, am I invited, or do I only get to speak in
2 public comment?

3 HEARING OFFICER COCHRAN: That's a very good
4 question. The intervenors are not parties to the closed
5 session. The closed session is for the committee only.
6 So any comments you wish to make need to be made now.

7 MR. PYLE: Okay. I would like to submit for
8 the record a formal writing in addition to what my
9 comments are.

10 So allow me to introduce myself first. My name
11 is Jason Pyle. I am one of the original intervenors of
12 the project. I, for the record, live within about 2500
13 feet of the proposed project. I'm a resident of
14 Huntington Beach and I am a homeowner here in Huntington
15 Beach.

16 I'd like to start off by thanking the committee
17 for a lot of their time, and staff. As an intervenor, I
18 have received all the documents. I'm amazed how much
19 information has gone through both on AES's side and on
20 the committee, and I don't know how one person could
21 ever digest it all. For that, I appreciate all your
22 hard work.

23 But in saying that, I also have many great
24 concerns, and I'm only going to address one of them
25 today, which is the issue of noise. I brought this up

1 at the original committee hearing back at Banning
2 Library almost a year and a half ago. The question of
3 noise was brought up and presented to Mr. O'Keefe at the
4 time, and I still think this item went up to the
5 committee for discussion and also for action, which is
6 this.

7 AES is a stand-alone project. It still must
8 conform to all of the rules and standards (inaudible).
9 They are not a continuing an existing power plant and
10 they are not granted this permit just because we need
11 energy within the system. That itself is available
12 (inaudible) the applicant is by themselves is part
13 (inaudible)standard.

14 And as CEQA violations clearly state, when we
15 compare the ambient noise of our community both the
16 wetlands and schools and neighborhoods and all the
17 receptor sites, and AES did a wonderful job doing an
18 ambient noise study over a long duration of time, their
19 data is great, unfortunately, findings are flawed and
20 their findings are flawed and they have to accept it.

21 And it simply stated is this, and this is what
22 I've asked the Commission to look at and intervene on,
23 is that our nighttime ambient noise without the power
24 plant operating versus our nighttime ambient noise with
25 the power plant operating.

1 CEQA clearly defines what is acceptable and
2 what's not. We are going to be impacted for the next
3 half a century. I'd like the Commission to consider
4 that. Your actions today this week will impact our
5 community for a long time beyond when all of us are
6 gone. It's going to be three generations, half a
7 century.

8 So when we look at what the effects are when
9 the power plant is not operating and when it is
10 operating, the noise by itself is a significant impact.
11 Our decibel level in our community and wetlands is down
12 in the 30-decibel range. When the power plant is
13 operating, it's going to be just short of 50.

14 Now, there is no dispute that on Fourth of July
15 weekend in Huntington Beach at 5:00 o'clock you would
16 never know that power plant is operating, but at 9:00
17 o'clock in the morning on a Monday when the elementary
18 school just down the street has its doors and windows
19 open because they do not have air conditioning, they're
20 going to hear the power plant.

21 When our residents at 2:00 o'clock in the
22 morning in the middle of August or in the middle of a
23 heat wave sleep with all the doors and windows open,
24 it's going to sound like a freight train in your
25 backyard.

1 You must at all times look at what is the
2 ambient noise -- and they did a good study -- at 2:00
3 o'clock in the morning and what is it going to become.
4 Because the power plant can come on line 60 minutes,
5 it's going to be quantifiable without question. What is
6 our noise before it starts and what will be our noise at
7 the receptor sites 60 minutes later.

8 I remind the Commission, this is not the most
9 effective and efficient power plant on the market today.
10 As the previous speaker spoke, Willow and Sentinel,
11 those plants are different and it's the applicant's
12 responsibility to propose a design that meets all
13 standards, including a CEQA violation of a difference of
14 what it is without them and what will become the effect
15 with them.

16 Let me expand on that (inaudible). When you
17 look at seven and a half years of construction and high
18 trial noise compared to a soft trial, you are going to
19 condemn our community to seven and a half years of
20 construction.

21 Is that an industry standard? It is not. You
22 will condemn us to half a century of increase in our
23 decibel noise limit, and you are lining up this project,
24 the applicant and the Energy Commission itself to
25 quantifiable, undisputable data that's going to result

1 in loss of mitigation because it won't just affect any
2 one person (inaudible) plant comes online and
3 (inaudible) come back (inaudible) to look at the
4 Commission and knowingly, knowingly had the option to
5 look at the differences and then include a condition of
6 build that says the new noise level when the plant is
7 operation shall not and will not exceed the ambient
8 noise prior to the start of the plant.

9 I know I exceeded my time. I encourage the
10 Commission to please look into the real effects of what
11 the noise is without the plant and what it is, and if
12 the applicant starts using the words it is within
13 standards or it was insignificant, one decibel more in
14 either site receptor over half a century is considered.

15 HEARING OFFICER COCHRAN: Thank you very much.
16 Is there anyone else on the phone who would like to
17 speak?

18 Ms. Rudman.

19 MS. RUDMAN: Yeah, I would like to speak. I
20 actually would like to pull up some pictures. I'm not
21 just sure everybody here has Googled my home address.
22 So I just want to pull it up for you.

23 So this is a map of Huntington Beach, and I'm
24 going to just use the pointer here. This is the project
25 site. Here's Eader Elementary School, here's Edison

1 High School. I grew up right here, and my mother still
2 lives there.

3 So I originally went to Wardlow Elementary
4 School and then went to Eader, which is here, and then
5 went to Sowers, and I used to ride my bike along Atlanta
6 Avenue past some oil wells that have since been capped
7 and covered with houses, and right along here I go to
8 high school.

9 So just so you know, I do have an interest.
10 And then I just also want to show kind of a bigger
11 perspective now. This is Huntington Beach, here's the
12 project site, and I introduced into evidence a new key
13 observation point, which is the Newport Beach Pier,
14 which is a little hard to see here, but if you see the
15 coast curves around and here is the Newport Beach Pier
16 right here, and so I introduced that into evidence and
17 analyzed that in terms of the millions of people that
18 attend the beaches in Newport Beach and Huntington
19 Beach. It's quite numbers of people.

20 One thing that I didn't do that I would urge
21 you to take a look at is if you notice how the coast
22 curves around. So from the Newport Beach Pier you're
23 looking at the side of the power plant. So you're going
24 to have one here, and it's a little longer and then it's
25 moving over, a little longer, and so you're going to

1 really actually see from the Newport Beach Pier a much
2 expanded view of the power plants.

3 In addition, this is the view from the Newport
4 Beach Pier. So you can see from the Newport Beach Pier
5 how the coast curves around, a lot of beaches, and the
6 height of the new power plant is going to be right here,
7 but you're going to see a longer type of view and this
8 is very sensitive views. These are millions of people
9 that attend the beaches at various times. So I urge you
10 to take that into consideration.

11 And then I just urge you to take a look at the
12 evidence that I submitted into the docket. My brief, my
13 testimony. I would ask you to consider it and to
14 reflect that in the final decision and to consider it.

15 Then I'd also like to present a couple of
16 erratas. In my brief I did notice an error on page 5
17 that I'd like to correct. Huntington Beach Energy
18 Project will emit a staggering amount of greenhouse
19 gases. According to the South Coast Air Quality
20 Management District's final determination of compliance,
21 if operated as permitted, the turbines will emit what
22 should be 7.8 million pounds or 3.9 million tons a year
23 of CO₂.

24 In addition, I'd like to point out on page
25 5.2-25 of the Presiding Member's proposed decision it

1 says that the Coastal Commission reports are not part of
2 the record. I did submit into the record those reports.

3 And I just would like to point out just a view
4 of some of the local neighborhoods around here how close
5 the power plants are.

6 HEARING OFFICER COCHRAN: If you could wrap it
7 up, it's been about five.

8 MS. RUDMAN: Okay. And then my final thing is
9 one of my favorite pictures. These are my nieces and
10 nephew. She's now 26. So we're here at a family day at
11 the beach. What I love about this picture, she's
12 wearing a T-shirt that says "Whatever." And so I think
13 children depend on us to protect them because they don't
14 care. They just want to make sure that we have a safe
15 environment for them. So thank you.

16 HEARING OFFICER COCHRAN: Thank you. Is there
17 anyone else who wishes to make public comment? Then at
18 this point the public portion of the meeting is closed
19 and we will be going into closed session to discuss the
20 revised PMPD.

21 Thank you for your participation today, and we
22 are now in closed session.

23 (Whereupon the public portion of the meeting
24 was closed at 1:26 p.m.)

25 HEARING OFFICER COCHRAN: The Committee has adjourned from

1 closed session; the time is now 3:50.

2 (Whereupon the meeting concluded at 3:50 p.m.)

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CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, WENDY E. ARLEN, hereby certify that I am a Certified Shorthand Reporter; that I reported in shorthand writing the foregoing matter at the time and place therein stated; that the foregoing pages are a full, true and complete transcript of my said shorthand notes and is a full, true and correct record of the proceedings had in said matter at said time and place.

Dated: _____

WENDY E. ARLEN, RMR, CRR
Certified Shorthand Reporter
California License #4355