

## DOCKETED

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**STATE OF CALIFORNIA**  
**California Energy Commission**

**In the Matter of:**

**REDONDO BEACH ENERGY PROJECT**  
**APPLICATION FOR CERTIFICATION**

**Docket No. 12-AFC-03**

**INTERVENOR CITY OF REDONDO BEACH'S**  
**STATUS REPORT**

April 24, 2015

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**I. BACKGROUND**

On April 16, 2015, the Committee in this proceeding issued an Order requiring the parties to file Status Reports on April 24, 2015. The Status Reports are to "aid the Committee in preparing a scheduling order" and shall include:

1. Any information regarding the scheduling of a public hearing by the SCAQMD on the PDOC/FDOC;
2. The status of efforts by staff to update any sections of the PSA;
3. The current timing and progress of any:
  - a. Meet and confer sessions with the City of Redondo Beach on the land use laws applicable to the project; and
  - b. The scheduling of any workshop on the PSA.
4. Any other relevant matters to the Committee's attention.

**II. THE COMMITTEE SHOULD NOT ISSUE A SCHEDULE AT THIS TIME**

Intervenor City of Redondo Beach ("City") respectfully requests that the Committee wait at least sixty (60) days before issuing a new schedule in this proceeding. We recognize that the Applicant ("AES") is eager to resume the AFC process after the failure of its land use initiative, but there are a number of critical issues that must be addressed before a new schedule can be issued.

A. **The PSA must be substantially modified and reissued before the proceeding resumes.**

1. **Commission staff acknowledge that the PSA must be substantially revised.**

In the Status Report submitted today by Commission staff, they report that they must make the following significant changes to the PSA:

Staff is working with applicant to obtain the information requested in the PSA to update their sections for the FSA, along with a new construction and demolition schedule. Air Quality staff is waiting for applicant's submittal of the cumulative impacts assessment to determine whether the combined air quality impacts of the proposed project, and other reasonably foreseeable local projects, would result in significant air quality related impacts during construction and operation. Visual Resources staff is also asking for a Site Screening and Landscape Concept Plan for review and consideration. Cumulative Resources staff has added eight new projects to the Cumulative list since the publication of the PSA. Alternatives staff is updating the Alternatives assessment to address additional elements analyzed in the Huntington Beach and Carlsbad proceedings.

These are not minor changes. They include a critical new Air Quality analysis; an entirely new Screening Plan for review in the Visual Resources section; and significant changes to the Alternatives analysis. *The PSA should be modified to include these analyses prior to the PSA workshop and comment period.* If staff wait until the FSA to incorporate these analyses, the new information cannot be properly reviewed and addressed by the parties during the PSA workshop and in their PSA comments.

2. **The "meet and confer" on LORS issues will likely result in material changes to the PSA.**

Commission staff and the City are scheduled to "meet and confer" regarding potential LORS violations on April 29, 2015. After the meeting, the PSA will likely require significant changes. In the PSA, Staff provide a cursory, one-sentence analysis of the City's ordinance barring new power plant development at the project site. Staff's conclusion that the

City's ordinance does not constitute a LORS violation is contrary to case law and to the Commission's prior decisions. The City is confident that after the meet-and-confer, Staff will conclude that there is a LORS violation.

If Staff determine there is a LORS violation, they will need to make significant and material changes to the PSA. Under those circumstances, the Commission cannot certify the proposed project "unless the commission determines that such facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving such public convenience and necessity." PRC § 25523. This would require a major new analysis to be performed by staff. Such a significant analysis should not be provided for the first time in the FSA. Rather, the PSA should be modified to include this analysis, so this issue can be properly addressed in the PSA workshop and PSA comments.

**3. New information has come to light that requires material changes to the PSA.**

As previously raised by the City, new information has come to light over the last nine months that must be incorporated in the PSA. As described in the City's Status Conference Statement, AES made several important admissions during its campaign for Measure B that need to be incorporated into Staff's "No Project" Analysis, specifically: (1) that the Redondo Beach power plant can be safely shut down without negatively affecting the electric grid; and (2) that there are significant benefits that would result from eliminating the power plant. These admissions were made to the press and to City officials. They have a material impact on Staff's analysis of the "no project" alternative, and should be incorporated into the PSA.

**4. The changes to the PSA are too significant to be addressed only in the FSA.**



**III. CONCLUSION**

For the reasons stated above, the City respectfully asks the Committee to wait sixty (60) days before issuing a schedule for the remainder of this proceeding.

Dated: April 24, 2015

JEFFER MANGELS BUTLER & MITCHELL LLP



By: \_\_\_\_\_

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BEACH