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VIA ELECTRONIC FILING

Mr. John Heiser, Project Manager
California Energy Commission
1516 Ninth Street
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The Honorable Andrew McAllister, Presiding Member
The Honorable Karen Douglas, Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

**Re: Huntington Beach Energy Project (12-AFC-02C)
 Objections to Certain Data Responses Contained in CEC Staff's Data Requests
 Set One (#A1-A74)**

Dear Commissioners and Mr. Heiser:

On November 13, 2015, CEC Staff issued Data Requests, Set One (#A1-A74) ("Data Requests") (TN# 206618) related to the Huntington Beach Energy Project Petition to Amend ("PTA") (TN# 206087) and identified December 14, 2015 as the date by which responses to such Data Requests are due. The Project Owner has worked diligently since the issuance of the Data Requests to obtain the responsive data Staff seeks in the requests.

Pursuant to section 1769 of Title 20 of the California Code of Regulations, the scope of Staff's analysis of the PTA is limited to an evaluation of the impacts of the proposed modifications on the environment and the proposed modifications compliance with Laws, Ordinances, Regulations, and Standards ("LORS"). Further, Staff's evaluation of a PTA must be consistent with the requirements of CEQA Guidelines section 15162, which governs the requirements for subsequent environmental review under CEQA after a project has been approved.¹ Section

¹ See generally Committee Scheduling Order, Sonoran Energy Project (02-AFC-1C) at pp. 2-3; see also Committee Order Following the Preliminary Site Assessment, Carlsbad Energy Center Project, 07-AFC-06C, at pp. 1-2 (January 15, 2015).



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15162 limits additional environmental review to “substantial changes” that will result in greater environmental impacts than what was analyzed in the Final Decision, and provides for reliance on the Final Decision (the prior environmental review) for areas that will not have substantial changes.

Since the PTA is primarily a change in technology and does not propose significant changes from what was analyzed during the AFC proceeding, no proposed modification will have impacts on the environment or on the facility’s ability to comply with LORS with respect to various areas of inquiry. (20 Cal. Code Regs. §1769(a)(1).) Thus, there are no “substantial changes” that will result in new significant environmental impacts or a substantial increase in the severity of previously identified significant effects that would require additional analysis. (CEQA Guidelines, § 15162.) Even though the Amended Project proposes different technology and different visual components than the Licensed HBEP, the Amended Project will not result in any new significant environmental impacts or a substantial increase in the severity of previously identified significant effects in any of the issue areas previously evaluated, including Air Quality, Public Health, and Visual Resources.

In addition to the above, Project Owner objects to the following data requests herein: A9-A10, A15-A18, A29 (Background), A31-A42, A51 (Background), A57, and A63-A64.

A9-A10: Project Owner objects to these data request as the Mission Viejo ambient monitor was proposed, reviewed, and approved as being representative of the project site by Staff and South Coast Air Quality Management District (“SCAQMD”) during the approval of the original HBEP air dispersion modeling protocol. Furthermore, the SCAQMD used the Mission Viejo monitoring station data in assessing HBEP’s compliance with ambient air quality standards in its Final Determination of Compliance. Pollutant concentrations measured at the Mission Viejo monitoring station are more representative of ambient air quality at the project site than the Long Beach station. Therefore, the Project Owner believes that the use of Mission Viejo monitoring data is appropriate for use in defining representative background concentrations. Finally, the South Coast Air Basin is designated non-attainment for state particulate matter with an aerodynamic diameter of 10 micron or less (PM_{10}). Accordingly, it is assumed that the entire basin is in non-attainment of the state standard and HBEP’s air quality impacts are assumed to contribute to an existing violation of the state PM_{10} standard, and would not contribute to a new violation as implied by Staff when adding maximum predicted concentrations to measured concentrations from the Long Beach station. Since the Amended HBEP - like the approved and Licensed HBEP - would contribute to an existing state violation of the standard, all HBEP’s emissions contributing to non-attainment ambient air quality are required to be offset. Thus, there are no “substantial changes” that will result in new significant environmental impacts or a



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substantial increase in the severity of previously identified significant effects that would require additional analysis by selecting a different ambient air quality station for PM10.

A15-A18 (Background and Requests): Project Owner objects to these data requests as they assume that the existing Huntington Beach Generating Station Unit 2 may be called upon to operate after HBEP is operational. The likelihood of Unit 2 being called to operate once HBEP becomes operational is very low for two reasons. First, Unit 2 requires an extended start up period, measured in hours, not minutes like HBEP. Secondly, Unit 2 has a significantly lower thermal efficiency and higher air emissions per unit of energy produced than HBEP. If energy or ancillary services were required in the project area, the loading order would dictate that HBEP, being significantly more efficient, will be dispatched. Furthermore, air emissions from Huntington Beach Generating Station Units 1 and 2 are already included in the ambient background data used in the modeling analysis, and incorporating Unit 2 into the modeling analysis would tend to double count air emission impacts. Finally, when the State Water Resources Control Board reissued the site's National Pollution Discharge Elimination System (NPDES) permit, they included a sunset provision for Units 1 and 2 to cease operation on December 31, 2020, with no provisions for operation beyond such date. Therefore, the likelihood that Unit 2 will be called into service from May to December 2020 remains very remote.

Background to A29: Project Owner objects to information contained in the "Background: Visible Plume Modeling Data" paragraph that precedes Data Request A29 on the grounds that the request incorrectly seeks data and information to conduct modeling in an effort to compare plumes from existing Huntington Beach Generating Station ("HBGS") Units 1 and 2 to the Amended Project, rather than seeking data and information to compare the correct baseline- the Licensed HBEP- to the Amended HBEP. HBGS Units 1 and 2 were considered when licensing HBEP and the Amended HBEP has only added an auxiliary boiler, for which data will be provided.

A31-A42: Project Owner objects to these data requests to the extent that these data requests seek information already analyzed in the HBEP record. Ground disturbance of the Licensed Project within the previously analyzed 28.6-acre project site has been fully analyzed. To the extent that the requests seek information not previously analyzed, Project Owner will provide a response.

Background to A51: Project Owner objects to Staff's reliance on the draft update to the Historic and Cultural Resources Element of the City of Huntington Beach General Plan. The update remains in draft form and has not yet been adopted by the City, thus is not an applicable LORS for this project.



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A57: Project Owner objects to Data Request A57 on the grounds that it seeks information that is outside the control of the Project Owner, does not yet exist, and is not relevant to the Amended HBEP. Given that a one-line diagram as requested in A57 will not exist until an unknown date in the future (and will be solely within the control of Southern California Edison), Project Owner is unable to respond to this request.

A63-A64: Project Owner reiterates the general objection noted above regarding the fact that the Amended HBEP is not a significant change from the Licensed HBEP and the Amended HBEP will not result in any new significant environmental impacts or a substantial increase in the severity of previously identified significant effects in the area of Visual Resources. In fact, when compared to the Licensed HBEP, the Amended HBEP will be an improvement on Visual Resources.

Notwithstanding the above objections, Project Owner will respond to the best of its ability to the Data Requests in Set One on or before December 4, 2015. Project Owner also reserves the right to supplement such responses as needed on or before December 14, after the December 8 Site Visit & Informational Hearing and data request workshop.

Very truly yours,

Melissa A. Foster

MAF:jmw