

## DOCKETED

<b>Docket Number:</b>	08-AFC-09C
<b>Project Title:</b>	Palmdale Energy Project (Formerly Palmdale Hybrid Power Plant) - Compliance
<b>TN #:</b>	211546
<b>Document Title:</b>	Palmdale Energy LLC's Request for Extension of Construction Start Date
<b>Description:</b>	N/A
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<b>Organization:</b>	DayZen LLC
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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

**DOCKET NO. 08-AFC-09C**

Petition For Amendment for the  
PALMDALE ENERGY PROJECT

**PALMDALE ENERGY, LLC's REQUEST  
FOR EXTENSION OF CONSTRUCTION  
START DATE**

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**INTRODUCTION**

Pursuant to Section 1720.3 of the California Energy Commission's (Commission) Rules of Practice and Procedure, Palmdale Energy, LLC hereby requests an extension of the deadline for the commencement of construction (Deadline) for the Palmdale Energy Project (PEP). Palmdale Energy, LLC requests the extension of the Deadline for the sole purpose of allowing the Commission to act upon the current, pending Petition To Amend (PTA). As discussed at the Committee Status Conference on May 10, 2016, Palmdale Energy, LLC requests the date be extended to June 1, 2017, which would allow more than enough time for the Commission to issue a Final Decision on its PTA for the PEP.

Section 1720.3 provides:

Unless a shorter deadline is established pursuant to § 25534, the deadline for the commencement of construction shall be five years after the effective date of the decision. Prior to the deadline, the applicant may request, and the commission may order, an extension of the deadline for **good cause**.

**BACKGROUND**

On August 4, 2008, the City of Palmdale filed an Application For Certification (AFC) with the Commission to construct and operate the Palmdale Hybrid Power Project (PHPP), a nominal 570 megawatt (MW) hybrid of natural gas-fired combined-cycle generating equipment integrated with solar thermal generating equipment. The Commission issued a Final Decision approving the PHPP on August 10, 2011 (Order No. 11-0810-09, the "Final Decision", 08-AFC-9).

On April 30, 2015, Palmdale Energy, LLC closed with the City of Palmdale for the purchase of all rights, licenses, permits, options, etc. in existence for the PHPP. On April 30, 2015, Palmdale Energy filed a Petition for Change in Ownership with the CEC and requested the name of the project be changed to the PEP. On the same day PEP filed the current PTA seeking to eliminate the solar components and upgrade the combustion turbines to allow more flexible generation. On June 10, 2015, the CEC approved the Petition For Change in Ownership to Palmdale Energy, LLC.<sup>1</sup> Staff has been processing the PTA for the PEP since it was filed. At this time Staff has prepared the Preliminary Staff Assessment (PSA) and will be completing the Final Staff Assessment (FSA) after the Antelope Air Quality Management District (District) issues its Final Determination of Compliance (FDOC). The FDOC has been delayed and therefore the Committee will not be able to issue a Final Decision on the PTA before the deadline for the commencement of construction on August 10, 2016.

### **TIMELINESS OF FILING**

This Petition is timely filed because it is well before the August 11, 2016 Deadline.

### **GOOD CAUSE DEMONSTATION**

The term “good cause” is not defined in the Warren Alquist Act<sup>2</sup> or the Commission’s Regulations<sup>3</sup>. Good cause is “largely relative in [its] connotation, depending upon the particular circumstances of each case”<sup>4</sup> As California courts have noted, the term is “not susceptible of precise definition [and] its definition varies with the context in which it is used.”<sup>5</sup> Therefore, the nature and extent of the showing necessary to satisfy the good cause requirement for an extension varies with the circumstances of each case.<sup>6</sup> The Commission has generally looked to the Applicant’s diligence efforts, whether the ability to construct the project prior to the Deadline was influenced by factors outside the Applicant’s control, and a balancing of the time and resources necessary to granting the extension versus those required for the filing and processing of a new Application For Certification (AFC).

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<sup>1</sup> Order No. 15-0610-1A, TN 205022

<sup>2</sup> Public Resources Code Section 25500 *et. seq.*

<sup>3</sup> Title 20, Division 2 of the California Code of Regulations

<sup>4</sup> *R.J. Cardinal Co. v. Ritchie* (1963) 218 Cal.App.2d 124, 144

<sup>5</sup> *Zorreno v. Unemployment Ins. Appeals Board* (1975) 47 Cal.App.3d 434, 439

<sup>6</sup> *Chalco-California Corp. v. Superior Court of Los Angeles County* (1963) 59 Cal 2d 883

### **Due Diligence**

Palmdale Energy, LLC has diligently pursued development of the PEP. Prior to the acquisition of the Project from the City of Palmdale on April 30, 2015 Palmdale Energy, LLC performed feasibility and marketability analyses which led to the preparation of a PTA for the PEP. In fact, the current PTA was filed on the same day the agreement for purchase closed and the Petition For Change in Ownership was filed. This was approximately 15 months prior to the Deadline. Palmdale Energy, LLC did not delay in modifying the project to incorporate fast-start, flexible generating capacity which is necessary for California to efficiently integrate new and existing renewable resources. The solar component of the original project inhibited this modification and therefore has been eliminated.

### **Factors Outside or Applicant's Control**

As discussed above, the PTA was filed approximately 15 months prior to the Deadline. Due to circumstances beyond Palmdale Energy, LLC's control the processing of the PTA will not likely be completed prior to the Deadline. Due to the District's decision to prepare a Revised PDOC and recirculate it for public comment, the FDOC, Staff's FSA, and the ultimate decision on the PTA cannot be completed prior to the Deadline. These third party actions are outside the control of Palmdale Energy, LLC.

### **Balancing of Time and Resources**

Palmdale Energy LLC, Staff, and the District have already spent considerable time and resources processing the PTA. Staff has already prepared its PSA and conducted a very productive workshop whereby Palmdale Energy, LLC and Staff have resolved virtually every significant issue. Therefore, it would be a waste of these productive resources and the time invested in the processing of the PTA to date if the Commission does not grant the extension. Palmdale Energy, LLC requests the Deadline be extended to June 1, 2017, not because it believes it will take that long for a Final Decision on the PTA, but to allow for unforeseen events that would require the filing of an additional petition to extend the Deadline.

## CONCLUSION

Therefore the Commission should extend the Deadline to June 1, 2017 to allow a Decision on the PTA because the Palmdale Energy, LLC has demonstrated good cause for the extension.

Dated: May 18, 2016

Respectfully Submitted,



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