

DOCKETED

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Subject: Scheduling concern

Ms. Cochran,

I would like to make you and the committee aware of a scheduling issue. Staff has completed its analysis in all subject areas in Part 1 of the FSA and has prepared to proceed to evidentiary hearings that were set for November 30, 2016. On November 18 (after 5:00 p.m.) the South Coast Air Quality Management District submitted its long-awaited FDOC for docketing. Yesterday, counsel for staff and applicant discussed the proposed schedule going forward and reached an agreement in principle for future dates, including the publication of Part 2 of the FSA. Shortly thereafter, counsel for AES filed a Proposed Schedule, and staff agreed with the dates as proposed. At about the same time, without prior consultation of the parties, the hearing office filed a memorandum cancelling the November 30 Hearing.

The cancellation of the hearing on November 30, 2016 presents a problem for staff (as well as for AES). I am the attorney assigned to represent staff in these proceedings: indeed, I have been involved with the Huntington Beach Energy Project since the original AFC was filed in 2012, and I am intimately aware of all of the unique facts and legal issues associated with the project. I will not be available to represent staff in this proceeding after December 16, as I have accepted a position with the California Attorney General's Office starting the following week. While only two technical subjects (Air Quality and Public Health) would be heard at part 2 of the bifurcated hearing, 18 technical subjects would be addressed at the first hearing date. It would be very difficult for another attorney to step in and orient themselves in such a short time for the bulk of the technical areas so as to be able to provide effective counsel for staff. Staff therefore strongly recommends that the Part 1 of the evidentiary proceeding take place as originally scheduled on November 30, or before December 16.

Earlier today, counsel for AES filed a revised proposed schedule. Staff concurs with AES's request that the Hearing proceed as originally scheduled on November 30. Staff cannot, however, publish the FSA Part 2 as recommended in AES' alternative schedule. Staff believes that the December 5 date to be unreasonable given several factors:

- the Air District offices are all this week, as well as Monday November 28, 2016 and Monday December 5, 2016, resulting in only 10 business days between November 21, 2016 and December 9, 2016;
- the Air District engineer and supervisor responsible for the HBEP FDOC are both out of the office this entire week;
- Energy Commission staff have scheduled time off around the November 25 and 26 holidays; and
- Energy Commission staff are also currently reviewing the FDOC recently filed in the matter of the Alamos Energy Center and preparing outstanding technical sections for the FSA Part 2 in that case, which has been assigned a higher priority than the HBEP.

I do hope that this provides the Committee with helpful information that will assist them in setting a schedule that will ensure timely and thorough participation by the parties.

-Kevin W. Bell
Senior Staff Counsel