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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
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APPLICATION FOR CERTIFICATION FOR THE:  
ALAMITOS ENERGY CENTER

Docket No. 13-AFC-01

## ENERGY COMMISSION STAFF OPENING BRIEF

At the conclusion of the Alamos Energy Center (AEC) evidentiary hearing covering part 1 of the Final Staff Assessment (FSA), the assigned Committee provided an opportunity for parties to file opening briefs. Staff offers the following discussion of key issues raised by the parties at the evidentiary hearing.

*Staff does not need to consider a smaller project as an alternative to the proposed project.*

The purpose of alternatives analysis is to identify feasible ways to substantially lessen the significant environmental effects of a project. An alternatives analysis need not consider every conceivable alternative to a project (Cal. Code of Regs., tit. 14, § 15126.6, subd. (b); see also Pub. Resources code, § 21002.1, subds. (a), (b); Cal. Code of Regs., tit. 14, § 15002, subd. (a)(3)). The California Environmental Quality Act (CEQA) establishes no legal imperative as to the scope of alternatives to be analyzed (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 566).

In this case, Staff found that the proposed project did not have any significant impacts or potentially significant impacts that could not be mitigated with proposed

mitigation (Staff Exhibit 2000, Final Staff Assessment, pp. 1-6 to 1-7). Thus, while any number of smaller project alternatives, that would generate fewer megawatts of power, could have been selected under an alternatives analysis, such a project would not have offered any environmental advantages over the 1040 MW proposed project. The currently proposed AEC project is over 900 MW smaller than the originally proposed, 1995 MW project, and the existing Alamitos Generating Station (AGS), which is 1950 MW (Exh. 2000, p. 3-1, Applicant Exhibit 1407, p. 2-1). In essence, a reduction in power generation already occurred and a smaller project is being proposed.

Despite not finding any significant environmental effects, Staff still considered and analyzed the following alternatives: water supply (Exh. 2000, p. 4.9-17); generating technologies, energy efficiency, demand response and energy storage (Exh. 2000, pp. 5.3-4, 6-11 to 6-15 ); inlet air cooling (Exh. 2000, p. 5.3-6); use of clutches and synchronous condensers (Exh. 2000, p.6-4); sites (Exh. 2000, pp. 6-15 to 6-20) and the no project alternative (Exh. 2000, p. 6-20).

***AEC's current power purchase agreement for 640 MW does not prohibit Staff from evaluating the proposed 1040 MW project or the Energy Commission from reaching a decision on the application.***

There is no requirement in the Public Resources Code or the Commission's regulations that an applicant obtains a power purchase agreement (PPA) in order for the Commission to evaluate the proposed project and issue a decision on the application.

The Los Cerritos Wetlands Land Trust (Trust) raises concerns regarding the inconsistency between the 640 MW PPA the Applicant currently has with Southern California Edison, and the project application for 1040 MW. Even if the project had no

PPA, Staff would still proceed to perform its independent environmental review (Cal. Code Regs., tit. 20, § 1742) and the Commission could reach a decision on the application (Cal. Code Regs., tit. 20, § 1748). As is the case with any proposed power plant before the Energy Commission, whether a project actually gets built to its licensed capacity is a product of obtaining a buyer for its generation. Public Resources Code section 25009 acknowledges that the risk of construction is on the developer, thus encouraging projects that can sell all power generated.

*Before the California electricity industry was restructured, the regulated cost recovery framework for powerplants justified requiring the commission to determine the need for new generation, and site only powerplants for which need was established. Now that powerplant owners are at risk to recover their investments, it is no longer appropriate to make this determination. (§ 25009)*

***The LTPP process and Staff's environmental review of a specific project are separate proceedings with different stakeholders and objectives.***

The LTPP process is a regional energy planning effort which identifies the amount of, and types of power generation, that will be necessary to ensure adequate supplies of power and grid reliability over a span of years. The LTPP process includes multiple stakeholders and expert agencies such as investor owned utilities, the California Independent System Operator and the California Public Utilities Commission (CPUC) (Exh. 2004, pp. 2-3).

The Commission's review of a specific project is focused on the significant environmental impacts, appropriate mitigation and compliance with all laws and regulations of a specific facility. This project-specific process does not generally include participation by the same set of expert agencies and stakeholders involved with the LTPP process (Exh. 2004, p. 3). The siting process is not designed to determine regional demand, grid constraints or develop regional reliability analysis.

Such analysis is not necessary as it would be duplicative of the LTPP process (Exh. 2004, pp. 2-3, Hearing Transcript, pp. 47: 12-25, 48:1-25, 49:1-22).

Fundamentally any issue the Trust has with findings made by the CPUC in the LTPP process (see examples of key findings, Exh. 2004, pp. 2-3), needs to be addressed in that forum and not within the context of a siting case before the Commission.

***Staff adequately assessed the cumulative impacts from the demolition of AGS.***

The approach Staff takes to developing the cumulative analysis is consistent with the CEQA Guidelines, section 15130 and is fully described in the FSA (Exh. 2000, pp. 1-14 to 1-15). The process starts with developing a comprehensive list of past, present and future projects (Exh. 2000, pp. 1-16 to 1-26). Then, Staff considers the entire list and identifies the appropriate geographical range relevant to each discipline. It is important to note that many of the projects listed are typically too far from the project under review to warrant a cumulative analysis. The projects within the range are then considered in each cumulative analysis section (Exh. 2000, p. 1-15).

For example, the concern for Biological Resource Staff was impacts to the Los Cerritos wetlands complex and other regional wetlands. The relevant projects to consider under their cumulative impacts analysis include AGS, Alamitos Barrier Improvement Project and a planned retail development at Pacific Coast Highway and 2nd Street (Exh. 2000, p. 4.2-37). Cultural Staff considered a larger area, six miles out, based on the movement of people in historical periods of time (Exh. 2000, pp. 4.3-57 to 4.3-58), whereas Noise Staff, given the properties of sound, only needed to consider projects within one mile of AEC (Exh. 2000, p. 4.6-21).

A cumulative impact consists of an impact which is created as a result of the combination of the project being evaluated together with other projects causing related impacts (CEQA Guidelines, § 15130, subd. (a)(1)). There are two key questions to ask in a cumulative analysis. First, is whether AEC is contributing a related impact? No matter how damaging to the environment the demolition of AGS may be, if there is no related impact attributable to AEC, there can be no cumulative impact and further analysis is not necessary (CEQA Guidelines § 15130, subd. (a)(1)). If there is a contribution from the project, the second question is whether the proposed project's incremental effects are cumulatively considerable (*Communities for a Better Environment v. California Resources Agency* (2002) Cal. App. 4<sup>th</sup> 98, 120, CEQA Guidelines § 15130, subd. (a)(2))?

In this case, demolition of AGS is a future project that has yet to be developed and the time frame and methodologies of demolition are unknown beyond that demolition of AGS will be during operations of AEC (Exh. 2000, pp. 3-1 to 3-2). But the discussion of cumulative impacts need not be to the same level of detail as is provided for the effects attributable to the project alone (CEQA Guidelines § 15130, subd. (b)).

Therefore it is appropriate for Staff to make assumptions and offer a more qualitative analysis as cumulative discussions should be guided by the standards of practicality and reasonableness (CEQA Guidelines § 15130, subd. (b)).

With no actual planned demolition project, the Trust submitted information (Trust Exhibits 3006 and 3007) suggesting that implosion, similar to the demolition of the South Bay power plant, could be the method of demolition. While it is questionable that implosion would be the means of demolition given the close proximity to the new AEC facility, Staff considered the hypothetical and provided additional analysis to address the Trust's concerns (Exh. 2004).

The specific impacts of concern identified by the Trust, stemming from implosion of AGS, include the effects of dust, noise and traffic on biological and water resources in the area (Trust Exhibit 3005, pp. 2-6). Following the two-step approach to cumulative analysis discussed above, the first threshold question is will the operations of AEC contribute to these impacts and if so, is AEC's contribution cumulative considerable?

### **Dust**

The nearest natural habitat is the Los Cerritos wetlands located about 800 feet from the AEC project site (Exh. 2000, p. 4.2-5). The threshold question is whether there would be any dust from AEC to combine with AGS demolition dust that could impact these wetlands? As Staff noted in its analysis, the only dust associated with AEC is during construction, not operations (Exh. 2000, p. 4.2-30; Exh. 2004, p. 7; Hearing Transcript, pp. 91: 2-25, 92: 1-12, 94: 1-16, 103: 10-25, 104: 1-11 (See TN# 214569 for corrected page 104)). Thus, regardless of how AGS is demolished, the operations of AEC would not contribute to any cumulative impacts related to dust. Because there is no contribution, no further analysis is necessary (CEQA Guidelines § 15130, subd. (a)(1)).

### **Noise**

Staff performing the noise analysis reasonably assumed that if construction of AEC in combination with operations of AGS resulted in no significant impacts, then operation of AEC with demolition of AGS would also result in no significant cumulative impacts (Exh. 2000, p. 4.6-22). This assumption is based on the fact that construction and demolition utilize similar types of equipment with similar noise profiles and both facilities are in close proximity to each other on an industrial site (Exh. 2000, p. 4.6-22; Hearing Transcript, pp. 82: 20-25, 83: 1-25, 84: 1-13).

When considering the Trust's implosion hypothetical, Staff found the operational noise from AEC would not contribute to the short term noise of an implosion and demolition of AGS in a manner that would impact nearby habitat or sensitive receptors because of the temporary nature of demolition and the existing industrial nature of the site. Any contribution from AEC would not be cumulative considerable with implementation of Conditions of Certification NOISE-1 through NOISE-8 (Exh. 2004, pp. 7 and 23-24).

### **Traffic and Transportation**

The record supports that operations of AEC will result in less traffic than operations of AGS, so in the long run, traffic will be reduced (Exh. 2000, pp. 4.10-23 to 4.10-25). In the short-term, there would be minimal daily traffic from AEC to even combine with traffic from AGS demolition, but regardless, any cumulative impacts between operations of AEC and demolition of AGS will be mitigated through TRANS-2 and AEC's contribution would not be cumulatively considerable (Exh. 2004, pp. 29-30).

### **Soil and Water**

The Trust raised some concerns with the cumulative impacts related to demolition of AGS on water quality. In this case, there are no similar impacts from AEC to combine with potential water quality impacts from the demolition of AGS because wastewater from the operations of AEC will be sent to the city treatment plant and not released into the local water ways (Exh. 2004, p. 26). Therefore, whatever impacts demolition of AGS may have on water quality there will not be a parallel impact from operations of AEC.



## Conclusion

Staff's cumulative analysis either found that the operations of AEC did not contribute a related impact that could combine with impacts from the AGS demolition or AEC's impact was not cumulatively considerable because of the recommended mitigation measures and temporary nature of demolition.

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Respectfully submitted,

*Original signed by*

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