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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of
The Application for
Certification
For the
ALAMITOS ENERGY CENTER

Docket No: 13-AFC-01

Intervener Part 2 Pre-Hearing Conference Statement

Prepared for Los Cerritos Wetlands Land Trust
December 19, 2016

Joe Geever
PO Box 41033
Long Beach, CA 90853

Intervenor Los Cerritos Wetlands Land Trust (the “Trust”) renews its request to postpone the Evidentiary Hearing. The schedule prescribing Rebuttal to Opening Testimony and this Pre-hearing Conference Statement, just hours before the hearing, precludes the “conference” and makes an unreasonable demand on parties to prepare for the hearing in a timely manner.

Further, the denial of our request for a postponement of the hearing has resulted in the Trust’s inability to schedule participation by legal representation. Therefore, the Trust requests the Committee conduct an informal hearing wherein the Trust’s witness, Mr. Powers, can present oral testimony as well as engage in questions and answers with relevant Commission staff on the subject areas of Air Quality and GHG emissions. We have submitted written testimony of the subject areas of Biological Resources, Soil & Water Resources, and Traffic & Transportation and do not intend to call or question witnesses on those subject areas.

With that request in mind, we offer this Pre-Hearing Statement, as directed by the Committee¹:

- 1. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony**
 - a. Biological Resources, Soil & Water Resources, and Traffic & Transportation
 - b. See #3 below

- 2. The Air Quality and Public Health issues in dispute, and the precise nature of the dispute for each issue**

See # 4(d) below:

- a. The FSA authorizes air pollutant emissions and GHG emissions from 1,040 MW of gas-fired generation when only 640 MW of gas-fired generation has been determined to be necessary at Alamitos by the CPUC for grid reliability purposes. No justification in law or regulation is put forth in the FSA to justify the exposure of local residents and the environment to air emissions from an additional 400 MW of gas-fired generation.
- b. Proposed first phase 640 MW CC cannot comply with CAISO startup LORS of 20 minutes or less (CAISO Tariff 40.3.1.1) and as a result generates excessive startup air pollution emissions.
- c. The selection by AES of high usage combined cycle technology is incompatible with the state's objective of rapid reduction of GHGs and will net result in an increase in GHG emissions from power generation in the LA Basin.
- d. The 400 MW of LMS100 units do comply with CAISO startup LORS and are part of the AEC application for certification for AEC. The 300

¹ The subject headings are taken verbatim from the Committee order at TN 214564

MW of AES battery units (BESS) proposed for Alamos do comply with the CAISO startup LORS, and do not require CEC approval.

- e. 400 MW of LMS100 and 200 MW of battery units meet CPUC-identified local grid reliability capacity requirement and would emit 90 percent less air pollution and GHGs than the 640 MW combined cycle block.
- f. The FSA inadequately documents “cumulatively considerable” impacts from construction and operation of the proposed project, and fails to acknowledge unmitigatable local dust and PM₁₀ impacts on the Los Cerritos Wetlands and local residents that will be offset with regional PM₁₀ offset credits.

3. The subject areas that were closed in Evidentiary Hearing, Part 1 that need to be reopened; how those subject areas relate to Air Quality and Public Health and the reasons for not proffering the evidence during Evidentiary Hearing, Part 1

- a. Biological Resources: As discussed in the Trust’s Opening Testimony, there will be significant cumulative impacts on biological resources from emissions of dust from past, present and future projects nearby. As staff testified during the Part One evidentiary hearing, the final emissions data from the proposed project were to be made available in the FSA Part 2². It is now clear, with inclusion of the air quality analysis into the FSA, that emissions of PM₁₀/PM_{2.5} from the proposed project will be cumulatively considerable and exacerbate the impacts on nearby biological resources. The staff assessment of PM₁₀/PM_{2.5} was not included in FSA Part One and consequently the Trust relied on the Part 2 process for documenting the cumulatively considerable impacts.
- b. Water & Soil Resources: Similar to Biological Resources, there will be significant cumulative impacts on soil and water resources from past, present and future projects nearby. Staff was asked during the Part One hearing if they had considered the PDOC in their analysis of impacts on water resources, and they answered “no”, adding “it isn’t relevant.”³ It is now clear, with inclusion of the air quality analysis into the FSA from data finalized in the FDOC, that emissions of PM₁₀/PM_{2.5} from the proposed project will be cumulatively considerable and exacerbate the impacts on nearby water and soil resources. It is also clear now that, despite staff’s assumptions in Part One, this new evidence is clearly relevant.
- c. Traffic & Transportation: As discussed in the Trust’s Opening Testimony, air quality degradation, including emissions of fugitive dust and particulate matter, from past, present and future traffic is significant. And it is foreseeable that demolition of AGS will include

² TN 214529: Hearing Transcript at p.92, lines 1-4

³ Ibid at p. 86, lines 9-10

much more dust emissions than compared to construction of the proposed project. Staff was asked during the Part One hearing if they had considered the PDOC in their analysis of impacts on traffic, and they answered “no.”⁴ It is now clear, with inclusion of the air quality analysis into the FSA, that emissions of PM10/PM2.5 from the proposed project did not adequately consider the cumulative impacts from additional traffic congestion as a result of construction of the proposed project and demolition of the AGS.

- d. CONCLUSION: The Trust has repeatedly opposed bifurcation of the process because of the interdependent and compounding effects of local air quality degradation on the several subject areas. Now that the FSA Part 2 is available, it is clear that the interdependence of subject areas was not adequately documented in the FSA, given the absence of an Air Quality analysis in the Part One proceedings. But the Trust could not have proffered evidence of the interconnection of the subject areas and the Air Quality analysis until the Air Quality analysis was included in the FSA.

The Committee should include the Trust’s Part 2 testimony and evidence in deliberation of the Presiding Members Preliminary Decision to avoid the result the Trust objected to in the bifurcation of the subject areas.

4. The identity of each witness the party intends to sponsor at the Evidentiary Hearing, Part 2, the subject areas about which the witnesses will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witnesses, qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically

a. Witnesses:

- i. Bill Powers (BP)
- ii. Joe Geever (JG)

b. Subject Areas of Testimony:

- i. scope and definition of “cumulative impacts” (JG)
- ii. cumulative impacts in several subject areas (JG and BP)
- iii. LORS (JG and BP)
- iv. Alternatives (BP)

⁴ Ibid at p.86, lines 6-7.

- c. Whether Testimony is Written or Oral:
 - i. Joe Geever’s testimony is written in the Trust’s Opening Testimony.⁵
 - ii. Bill Powers’ testimony is included in the Trust’s written Opening Testimony,⁶ but will be supplemented and presented orally at the Evidentiary Hearing. Further, Mr Powers’ oral testimony will include issues raised in rebuttal to the Applicant’s Opening testimony.
- d. Brief Summary of Testimony:
 - i. The Project Definition is inconsistent with the Power Purchase Agreement approved by the CPUC after consideration of the state’s loading order and the combined cycle block is incapable of providing full power in 20 minutes, and consequently the project is inconsistent with state laws, regulations and standards (LORS)

According to the CPUC, LA Basin grid reliability will be met at least through 2022 with 740 MW of new capacity at the Alamitos site, 640 MW gas-fired generation and a 100 MW battery storage. The CEC has done no independent LA Basin grid reliability assessment to justify additional gas-fired capacity at Alamitos beyond the 640 MW identified by the CPUC as sufficient to address reliability issues. This CPUC determination pre-dated the imminent moth-balling of the 965 MW Paloma combined-cycle located on the main transmission trunkline between Kern County and the LA Basin, and therefore did not consider a long-term contract with La Paloma as an alternative to the renewable energy load-following project objective identified for AEC. Most renewable energy resources used in the LA Basin are located outside the LA Basin – there is no grid reliability need for this renewable energy load-following to be realized by gas-fired generation located in the LA Basin. The Paloma combined cycle plant has the same efficiency as the proposed AEC combined cycle plant. In addition, the CPUC identified approximately 800 MW of demand response that will be added in the LA Basin by 2022 that is not currently classified as a grid reliability resource. Reclassification of this demand response as fully reliable, as an alternative to the proposed project, can serve the 1-in-10 year grid reliability function identified as project objective for the AEC in the FSA and was not studied by the CEC. Nor was a combination of this demand resource and the available La Paloma combined cycle capacity evaluated by the CEC.

Further, the Applicant has now applied for a Battery Energy Storage System (BESS) on the same property as the proposed project that will include 300 MW of energy storage. This capacity is 200 MW of storage beyond what was contemplated in the

⁵ TN 214853 (revised edition pending)

⁶ Ibid

CPUC final decision for the necessary capacity for this site. That additional energy storage, in combination with the 400 MW of gas-fired generation from the SCGT block will meet the reliability requirements in the CPUC determination as well as all of the proposed project's basic objectives.

Therefore, the Trust disagrees that the proposed project is the best "feasible" alternative to meet the basic objective of the proposed project and simultaneously meet the regulatory standards in the CPUC's "loading order." As the Trust stated in its comments on the PSA, and all communications since, it is feasible to meet the purpose of the project with less than 640 MW of gas-fired generation.

CEC licensing of more than 640 MW of gas-fired generation would exacerbate the significant cumulatively considerable impacts from operation of the proposed 1,040 MW gas-fired facility, while creating inconsistencies with State laws and regulations to reduce GHG emissions. Combining the 400 MW of fast-start LMS100 capacity evaluated in the FSA with the additional 200 MW of battery storage that AES has proposed to locate at the site would meet the capacity identified by SCE and the CPUC as necessary at Alamos and reduce air pollution emissions and GHGs by about 90 percent relative to the 640 MW high usage combined cycle power block.

LORS

Licensing a 1,040 MW gas-fired facility when the CPUC, after a multi-year evaluation process, has only found the need for 640 MW of gas-fired generation at Alamos, is clearly contrary to the regulatory mandates in the state's loading order. The Commission must make an affirmative decision on this LORS override, and there is no reasonable basis for an override.

The 640 MW combined cycle block cannot comply with CAISO Tariff Section 40.3.1.1 - it cannot provide full power within 20 minutes of a dispatch order. Tariff Section 40.3.1.1, requires the CAISO, in performing the Local Capacity Technical Study, to apply the following reliability criterion:

Time Allowed for Manual Adjustment: This is the amount of time required for the Operator to take all actions necessary to prepare the system for the next Contingency. The time should not be more than thirty (30) minutes.

When evaluating resources that satisfy the requirements of the CAISO Local Capacity Technical Study, the CAISO assumes that local capacity resources need to be available in no longer than 20 minutes so the CAISO has a reasonable opportunity to perform its necessary tasks and enable the CAISO to reposition the system within the 30 minutes in accordance with applicable reliability criteria.

The GE Frame 7A.05 combined cycle units cannot comply with CAISO's definition of compliance with CAISO Tariff Section 40.3.1.1. This is non-compliance with an applicable that results in elevated startup air emissions. The inability of the GE Frame 7A.05 to reach full load within 20 minutes of a dispatch call means: 1) elevated startup air emissions will continue beyond the CAISO-mandated 20-minute maximum startup period permitted for resources intended to serve as grid reliability resources, thereby subjecting local residents and the SCAQMD to elevated startup emissions that would not be emitted during startup of complaint grid reliability gas-fired resources, and 2) the GE Frame 7A.05 units should not qualify as grid reliability resources due to startup timelines that exceed 20 minutes.

- ii. cumulative impacts from operation of the proposed AEC and other nearby projects will be significant and are not adequately documented

The definition of cumulative impact "is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines §15130.) The demolition of AGS, even if it is considered a separate project from the proposed AEC, is a reasonably foreseeable result of the proposed AEC. Although the Committee ordered that AGS demolition be considered for cumulative impacts, the FSA fails to adequately analyze AGS demolition as a cumulative impact. In the Evidentiary Hearing on Part One, staff opined:⁷

"But as far as any cumulative effect of demolition of the existing AGS, along with operation of the AEC, and insofar as how that cumulatively might affect wildlife in the Wetlands, I have the same answer that I did a minute ago. The combined effects of the two may or may not be significant. But if they are significant, the contribution of the operating AEC to such an impact would not be considerable."

In the absence of a plan for demolition and mitigation measures to minimize adverse impacts from dust emissions during demolition, the Commission must assume the cumulative impacts will be significant. And clearly, monthly emission of tons of PM10/PM2.5 during operation of the proposed AEC will add a "cumulatively considerable" impact to dust settling in the nearby wetlands' biological, soil and water resources.

Further, FSA Part 2 states that the GHG emissions from operation of the proposed AEC will be mitigated to less than significant, and so the proposed AEC does not result in a significant contribution. However, the proposed project will contribute more GHG emissions than is currently emitted by the merchant LA Basin coastal

⁷ TN : Hearing Transcript at p. 92, lines 5-12 (emphasis added)

boiler gas-fired generation fleet. And this site has already been reviewed by the CPUC for need to meet LA Basin reliability, and the decision found that 640 MW of gas-fired generation was sufficient to enforce state laws, regulations and standards to reduce GHG emissions.

- iii. Proposed mitigation does not reduce foreseeable impacts to less than significant

The FSA Part 2 relies on regional mitigation credits to minimize the local deposition of PM10/PM2.5. Yet, the FSA Part One stated that regional mitigation of air quality degradation was not satisfactory to minimize the local impacts. And staff stated in the Part One hearing that, because the proposed AEC would not emit dust that would settle in the local area, the operation of the facility could not be “cumulatively considerable.” Further, staff testified in the Part One hearing that the deposition of PM10/PM2.5 would be documented in FSA Part 2.

Now it is clear in the FSA Part 2 that the proposed project will emit significant volumes of PM10/PM2.5, fine particle dust, into the local environment. Nonetheless, FSA Part 2, contrary to the findings in FSA Part One for other air quality contaminants, is relying on regional mitigation credits to offset local deposition of dust.

The Trust disagrees that the mitigation measures in the Conditions of Certification adequately minimize local emissions of dust. Further, the Trust disagrees that the mitigation measures to offset GHG emissions is consistent with state laws, regulations and standards to reduce GHG emissions in the LA Basin.

- iv. Alternatives to the proposed project, including preferred resources, are feasible, will meet the “basic objectives” of the project, and will bring the proposed project into compliance with LORS.

The Trust has identified feasible alternatives that meet the basic objectives of the project. These alternatives also ensure minimization of adverse impacts, but consistency with LORS. See Opening and Rebuttal Testimony, Part One and Opening and Rebuttal Testimony, Part Two.

5. Conclusion

The analyses in the FSA Part One and Part 2 are inadequate, as set forth in the following paragraphs.

First, the startup rate of the 640 MW combined cycle power block analyzed in the FSA does not comply with CAISO Tariff Section 40.3.1.1. As a result of this LORS non-compliance, the 640 MW combined cycle block produces excessive startup air

emissions as startup extends beyond the 20-minute maximum startup duration identified by CAISO as necessary to demonstrate compliance with Tariff Section 40.3.1.1.

Second, FSA Part One argues that construction of the proposed AEC while continuing to operate the AGS will not create cumulative impacts. But the argument goes on to assume that demolition of the AGS simultaneous with operation of the proposed AEC will be similar, and consequently that will not create significant cumulative impacts. But despite the absence of a demolition plan, the Trust has offered evidence that demolition of these vintage power plants is a much more complicated, with foreseeable impacts not considered in the FSA. And mitigation of demolition impacts is not the same as mitigating impacts from construction of a new facility.

Third, staff argues in the Part One hearing that operation of the proposed facility and demolition of the AGS “may or may not be significant”, but the contribution of the proposed AEC’s contribution to air quality degradation would not be “considerable.” Now FSA Part 2 documents a significant amount of dust will be emitted from the proposed AEC in the form of fine particulate matter.

Forth, the staff assessment concludes that regional mitigation credits will adequately minimize local emissions of PM10/PM2.5, and will mitigate GHG emissions. But regional mitigation will not minimize local deposition of dust and the cumulatively considerable adverse impacts on nearby wetlands soil, water and biological resources. And state laws to reduce GHG emissions have already been enforced for this site, and the CPUC has already limited the capacity of gas-fired generation at this site to no more than 640 MW.

Fifth, the staff and Applicant argue that the Commission is not required to identify a “need” for the facility and that the Commission can approve the license without a power purchase agreement – consequently, the staff and Applicant argue, there is no requirement to analyze alternatives to meet the basic objectives of the proposed project. But this argument fails to account for the fact there is already a power purchase agreement that was considered by the CPUC in their enforcement of state laws, regulations and standards for reducing GHG emissions. Licensing this proposed facility for 1,040 MW would be inconsistent with those LORS.

In conclusion, the assumptions in the FSA are unsupported. The analyses are inadequate. The mitigation is misplaced. And the alternatives offered are too narrow to resolve the significant cumulative impacts and ensure consistency with state LORS.

a. Witness Qualifications,

- i. Bill Powers is a mechanical engineer with experience in power generation, transmission, storage and energy planning.

- ii. Joe Geever spent a decade working in the building trades and has since worked as a community organizer and advocate for environmental protection and represents the collective knowledge of the Trust about the Los Cerritos Wetlands.
- b. Time required to testify.
 - i. Bill Powers will require 30 minutes for his testimony.
 - ii. Joe Geever will not testify at the hearing, but will be available to answer questions by the Committee on admission of the Trust's testimony and evidence on subject areas from Part One into the record.
- c. Whether witness will testify telephonically.
 - i. No, the Trust's witnesses will not testify telephonically.
 - ii. The Trust does not object to the staff witnesses listed below testifying telephonically.

6. Subject areas upon which the party desires to question the other parties' witnesses, a summary of the scope of the questions (including questions regarding witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness. (Note: A party who fails to specify the scope, relevance and time for questioning other parties' witness(es) risks preclusion from questioning witnesses on that subject area.)

See issues in #4(d) above for scope of issues for questioning

- a. Staff. Nancy Fletcher (30 minutes)
 - i. GHG: The scope of questions will include
 - ii. Dust and PM10/PM2.5: As detailed in Trust's Opening Testimony, questions will include whether PM10/PM2.5 is characterized as "dust" by the ARB, whether and to what extent the quantities of PM10/PM2.5 emitted from construction and operation of the proposed facility will add to other dust emissions in the local area, and alternatives that would minimize those construction and operation emissions.
- b. Staff. David Vidaver
 - i. GHG, startup duration of GE Frame 7A.05.

7. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence during the Evidentiary Hearing, Part 2 and the technical subject areas to which they apply (see below for further details on Exhibit Lists)

See attached Exhibit List

8. Proposals for briefing deadlines or other scheduling matters

The Trust has previously submitted a revised schedule that recommended

adequate time for reasonable public participation in the process.⁸ That request was, in large part, denied and resulted in unreasonable demands on the Intervenor and the public despite the importance of the subjects of Air Quality and Public Safety on both the local environment and local residents.

In order to provide reasonable time for Intervenor and public participation, we now request additional time to review the Part 2 Hearing Transcript when it is available and to prepare Part 2 Briefs and Rebuttal Briefs.

Assuming the Part 2 hearing transcript is available on December 30, 2016, we request the schedule change the following due dates:

- Opening Brief on Part 2 EH: January 13, 2017
- Rebuttal Briefs on Part 2 EH: January 20, 2017

⁸ See TN 214730