

DOCKETED

Docket Number:	97-AFC-01C
Project Title:	High Desert Power Plant
TN #:	220915
Document Title:	Notice of Prehearing Conference and Evidentiary Hearing, Scheduling Order, and Further Orders
Description:	Notice of Prehearing Conference Monday, September 11, 2017 and Evidentiary Hearing Wednesday, September 20, 2017
Filer:	Darlene Burgess
Organization:	Energy Commission Hearing Office
Submitter Role:	Committee
Submission Date:	8/25/2017 3:11:14 PM
Docketed Date:	8/25/2017



Before the Energy Resources Conservation and Development
Commission of the State of California
1516 Ninth Street, Sacramento, CA 95814
1-800-822-6228 – www.energy.ca.gov

PETITION TO AMEND THE:

HIGH DESERT POWER PLANT

Docket No. 97-AFC-01C

**NOTICE OF PREHEARING CONFERENCE AND EVIDENTIARY
HEARING, SCHEDULING ORDER, AND FURTHER ORDERS**

PLEASE TAKE NOTICE that the Energy Commission Committee¹ (Committee) assigned to conduct proceedings on the Project Owner's Petition for Modification to Drought-Proof the High Desert Power Plant (Petition)² has scheduled a Prehearing Conference and an Evidentiary Hearing as follows:

The **PREHEARING CONFERENCE** will be conducted on:

**MONDAY, SEPTEMBER 11, 2017
1:30 p.m.**

**California Energy Commission
Art Rosenfeld Hearing Room (Hearing Room A)
1516 Ninth Street
Sacramento, CA 95814
(Wheelchair Accessible)**

The **EVIDENTIARY HEARING** will be conducted on:

**WEDNESDAY, SEPTEMBER 20, 2017
10:00 a.m.**

**California Energy Commission
Art Rosenfeld Hearing Room (Hearing Room A)
1516 Ninth Street
Sacramento, CA 95814
(Wheelchair Accessible)**

Remote Access Available by Computer or Phone via WebEx™(Instructions below)

¹ The Committee consists of Commissioner Karen Douglas, Presiding Member, and Commissioner Janea A. Scott, Associate Member. The full Commission made this Committee assignment at an Energy Commission Business Meeting on January 13, 2016.

² TN 206468.

SCHEDULING ORDER

PLEASE TAKE NOTICE that the Committee has established the following schedule for this proceeding:

<u>EVENT</u>	<u>DATE</u>³
Parties File Opening Testimony	September 5, 2017
All Parties File Rebuttal Testimony ⁴	September 8, 2017
All Parties File Prehearing Conference Statements with Exhibit Lists	September 8, 2017
Prehearing Conference	September 11, 2017
Evidentiary Hearing	September 20, 2017
All Parties File Briefs, if determined to be necessary by the Committee	5 days after the hearing transcripts are filed
Committee Recommended Decision ⁵ filed	TBD
Final Adoption Hearing by the California Energy Commission	TBD

*TBD = To Be Determined

Purpose of Prehearing Conference

The Prehearing Conference is a public forum where the Committee will assess the parties' (Petitioner, Energy Commission Staff, Intervenor California Department of Fish and Wildlife) readiness for an Evidentiary Hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the amendment process.

Order Regarding Updated Opening Testimony, Updated Rebuttal Testimony, Prehearing Conference Statements and Exhibit Lists

The parties filed opening and/or rebuttal testimony in 2016 before a previously-scheduled evidentiary hearing.⁶ The parties may file updated opening testimony no later

³ All deadlines stated in this Notice are at 5:00 p.m. local time in Sacramento, California, on the specified date, unless another specific time is provided.

⁴ Rebuttal testimony is in response to an issue first raised in opening testimony. Testimony which could have, with reasonable diligence been filed as opening testimony, may be subject to exclusion on the motion of a party or the Committee's own initiative.

⁵ The Committee will be filing a Committee Recommended Decision for consideration by the Energy Commission as a whole. After the Committee Recommended Decision is filed, there will be a 15-day comment period for the parties and the public. The decision to issue a Committee Recommended Decision is made pursuant to California Code of Regulations, title 20, sections 1203 and 1769.

⁶ TNs 210083, 210088, 210301, 201303, 210565, 210648, 210860.

than September 5, 2017. The parties may file updated rebuttal testimony no later than September 8, 2017. If a party does not file updated opening or rebuttal testimony is provided, the Committee and other parties shall revert to the previously docketed opening and/or rebuttal testimony.

All parties are **ORDERED** to file a Prehearing Conference Statement and Exhibit List on or before September 8, 2017, that updates the previous filings by the parties. These updated Prehearing Conference Statements and Exhibit Lists shall include an updated exhibit list, formatted as described below. Failure to timely file an updated Prehearing Conference Statement and Exhibit List may result in the exclusion of evidence and limitation of cross-examination.

The Prehearing Conference Statement must specify under separate headings:

1. The subject areas that are complete and ready to proceed to Evidentiary Hearing;
2. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony;
3. The subject areas that are not complete and not yet ready to proceed to Evidentiary Hearing and the reasons therefor;
4. The subject areas that remain disputed and require adjudication, and the precise nature of the dispute for each issue;
5. The identity of each witness the party intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically;
6. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness. (*NOTE: A party who fails to provide, with specificity, the scope, relevance and time for questioning other parties' witness(es) risks preclusion from questioning on that subject area.*);
7. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence during the Evidentiary Hearing and the technical subject areas to which they apply (see below for further details on Exhibit Lists); and
8. Proposals for briefing deadlines, impact of scheduling conflicts, or other scheduling matters.

All parties intending to submit documentary evidence for consideration at the Evidentiary Hearing are **ORDERED** to docket such exhibits, and an Exhibit List with their Prehearing Conference Statements no later than 5:00 p.m. on the dates specified in the above schedule.

All documentary evidence and written testimony must be docketed in this proceeding's docket (97-AFC-01C) and have a transaction number (TN) assigned by the Energy Commission Dockets Unit. Exhibits without a TN, or not docketed in this proceeding's docket, will not be received into evidence absent a showing of good cause. If the document is already docketed, it need not be refiled; simply provide the TN on the Exhibit List.

The parties shall exchange documentary evidence, including written testimony, by filing an Exhibit List. Each document shall be numbered and identified on the Exhibit List as follows:

- Petitioner's exhibits shall be numbered *consecutively* as **Exhibits 1000 through 1999**;
- Staff's exhibits shall be numbered *consecutively* as **Exhibits 2000 through 2999**; and
- Intervenor California Department of Fish and Wildlife shall be numbered *consecutively* as **Exhibits 3000 through 3999**.

The Exhibit Lists shall be formatted as four columns. The first column shall list the proposed exhibit number. The second column shall contain the TN of the corresponding document. The third column shall state the title of the document as shown in the docket. The fourth column shall state the subject area(s) to which the exhibit applies. Hearing Office staff will then add the exhibit number information to the e-filing system. An exhibit list may be generated by clicking on the Exhibit List link on the project web page.

Failure of any party to comply with the filing requirements stated in this Order may preclude that party from participating in the Evidentiary Hearing.

Purpose of the Evidentiary Hearing

The Evidentiary Hearing is an administrative adjudicatory proceeding to receive evidence into the formal hearing record from the parties. Only the parties may present evidence for introduction into the formal hearing record, which is the only evidence upon which the Energy Commission may base its decision under the law. Testimony offered by the parties shall be under oath. Each party has the right to present witnesses, introduce exhibits, and to rebut the evidence of another party.

Formal and Informal Hearing Procedures

Pursuant to California Government Code section 11445.10 et seq., and the California Code of Regulations, title 20, section 1210,⁷ the Committee may conduct all or portions of the Evidentiary Hearing using an informal procedure.

The informal hearing process would generally proceed in the following order:

⁷ Cal. Code Regs., tit. 20, §§ 1207, 1210.

1. All parties' experts on the subject area at hand are sworn in as a panel;
2. Petitioner's experts would provide a brief opening statement summarizing the key points and conclusions of their testimony;
3. Staff's experts would provide a brief opening statement summarizing the key points and conclusions of their testimony;
4. Intervenor's experts would provide a brief opening statement summarizing the key points and conclusions of their testimony;
5. Open discussion among the expert panelists led by the Committee;
6. Parties may follow up with questions of their own or other expert witnesses to the extent the Committee finds the questioning productive; and
7. At the conclusion of the parties' examination of the experts, the Committee may ask witnesses additional questions or allow panelists to ask additional questions of each other and to offer follow-up answers.

The formal hearing process would generally proceed as follows:

1. A party asks direct questions of its witnesses on the topic at hand, either one at a time or seated as a panel;
2. The other parties then, in turn, ask cross-examination questions of the witness or panel who just testified;
3. The offering party can ask re-direct questions;
4. The other parties can ask re-cross questions; and
5. Repeat the above steps for the witnesses offered by the other parties.

Notice of Closed Session Deliberations

At any time during the Prehearing Conference or Evidentiary Hearing, the Committee may adjourn to a closed session in accordance with California Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.

Transcripts

Parties are responsible for identifying errors in the transcripts of the proceedings. Corrections to the transcripts must be submitted to the Committee within 30 days of the filing of a transcript.

Public Adviser and Public Participation

Members of the public are welcome to attend and offer oral or written comments at the Prehearing Conference and at the Evidentiary Hearing. It is not necessary to be an intervenor to participate in the public process. Written comments may also be submitted electronically by visiting the website at:

<http://www.energy.ca.gov/sitingcases/highdesert/index.html>

and clicking on the “Submit e-Comment” link in the “Compliance Proceeding” box. Otherwise, written comments may be submitted by e-mailing them to docket@energy.ca.gov, or by mailing them by U.S. Mail to:

California Energy Commission
Docket Unit
Docket number: 97-AFC-01C
1516 Ninth Street, MS-4
Sacramento, CA 95814

For all comments, please include the docket number and proceeding name “**Docket No. 97-AFC-01C, High Desert Power Plant Project,**” in the subject line and on the cover page.

PLEASE NOTE: Your written and oral comments, attachments, and associated contact information (e.g., your address, phone, e-mail, etc.) become part of the viewable public record. Additionally, this information may become available via search engines, such as Google and Yahoo.

Public Adviser and Other Commission Contacts

The Energy Commission’s Public Adviser’s Office provides the public with assistance in participating in Energy Commission proceedings. For information on how to participate in these proceedings, please contact Alana Mathews, Public Adviser, at (916) 654-4489 or (800) 822-6228, or by e-mail at publicadviser@energy.ca.gov.

If you have a disability and need assistance to participate in either event, contact Poneh Jones at least five days prior to the event at (916) 654-4425, or by e-mail at poneh.jones@energy.ca.gov.

Questions of a legal or procedural nature should be directed to Susan Cochran, Hearing Officer, at (916) 654-3965, or by e-mail at susan.cochran@energy.ca.gov.

Technical questions about the project should be directed to Leonidas Payne, Project Manager, at (916) 654-4611, or by e-mail at leonidas.payne@energy.ca.gov.

Media inquiries should be directed to the Media and Public Communications Office at (916) 654-4989, or by e-mail at mediaoffice@energy.ca.gov.

Remote Attendance

You may participate in this meeting through WebEx, the Energy Commission's online meeting service. Any presentations will appear on your computer screen, and you may listen to audio via your computer or telephone. Please be aware that the meeting may be recorded.

To Join a Meeting:

VIA COMPUTER: Go to <https://energy.webex.com> and enter the unique meeting number for either the **Prehearing Conference: 491 608 789** or the **Evidentiary Hearing: 494 837 423**. When prompted, enter your name and email address. No meeting password is needed.

The “Join Conference” menu will offer you a choice of audio connections:

1. To call into the meeting: Select "I will call in" and follow the on-screen directions.
2. International Attendees: Click on the "Global call-in number" link.
3. To have WebEx call you: Enter your phone number and click "Call Me.”
4. To listen over the computer: If you have a broadband connection, and a headset or a computer microphone and speakers, you may use VoIP (Internet audio) by going to the Audio menu, clicking on “Use Computer Headset,” then “Call Using Computer.”

VIA TELEPHONE ONLY (no visual presentation): Call (866) 469-3239 (toll-free in the U.S. and Canada). When prompted, enter the unique meeting number for either the Prehearing Conference: **491 608 789** or the Evidentiary Hearing: **494 837 423**. International callers may select their number from:

<https://energy.webex.com/energy/globalcallin.php>

VIA MOBILE ACCESS: Access to WebEx meetings is now available from your mobile device. To download an app, go to:

www.webex.com/products/web-conferencing/mobile.html

Please be aware that WebEx audio and on-screen activity may be recorded. WebEx Technical Support is available at (866) 229-3239.

Muting:

We greatly appreciate your cooperation in reducing unwanted noise on the audio connection by muting your line when you are not speaking. Mute your line rather than placing your phone on hold. Using WebEx, you may mute yourself by right clicking on your name in the panelists or attendees list and selecting “Mute.” If you are only using a telephone connection, press “*6” once to mute and again to unmute.

Availability of Documents

Information concerning the status of the High Desert Power Plant Amendment, as well as notices and other relevant documents, may be viewed on the Energy Commission's web page at:

<http://www.energy.ca.gov/sitingcases/highdesert>.

Dated: August 25, 2017, at Sacramento, California.

ORIGINAL SIGNED BY:

ORIGINAL SIGNED BY:

KAREN DOUGLAS

Commissioner and Presiding Member
High Desert Amendment Proceeding

JANEA A. SCOTT

Commissioner and Associate Member
High Desert Amendment Proceeding

Mailed to list: 707

**High Desert Power Plant Project (97-AFC-01C)
Prehearing Conference Agenda
Monday, September 11, 2017**

1:30 p.m.

**California Energy Commission
Art Rosenfeld Room (Hearing Room A)
1516 Ninth Street
Sacramento, CA 95814**

1. Call to Order
2. Prehearing Conference
3. Public Comment

Members of the public and other interested persons and entities may speak up to three minutes on matters related to this proceeding.

4. Closed Session (if necessary)⁸
Committee closed session consideration of the following items:

***PETITION FOR MODIFICATION TO DROUGHT-PROOF THE HIGH DESERT
POWER PLANT***

***DELIBERATION ON MATTERS SUBMITTED TO THE COMMITTEE
INCLUDING, BUT NOT LIMITED TO, PENDING MOTIONS AND
SCHEDULING.***

5. Adjourn

Agency Contact: Susan Cochran, Hearing Officer, at (916) 654-3965, or e-mail at susan.cochran@energy.ca.gov.

⁸ The Committee may adjourn to closed session in accordance with Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.

**High Desert Power Plant Project (97-AFC-01C)
Evidentiary Hearing Agenda
Wednesday, September 20, 2017**

10:00 a.m.

**California Energy Commission
Art Rosenfeld Room (Hearing Room A)
1516 Ninth Street
Sacramento, CA 95814**

1. Call to Order
2. Evidentiary Hearing
3. Public Comment

Members of the public and other interested persons and entities may speak up to three minutes on matters related to this proceeding.

4. Closed Session (if necessary)⁹
Committee closed session consideration of the following items:

***PETITION FOR MODIFICATION TO DROUGHT-PROOF THE HIGH DESERT
POWER PLANT.***

***DELIBERATION ON MATTERS SUBMITTED TO THE COMMITTEE
INCLUDING, BUT NOT LIMITED TO, PENDING MOTIONS AND
SCHEDULING.***

5. Adjourn

Agency Contact: Susan Cochran, Hearing Officer, at (916) 654-3965, or e-mail at susan.cochran@energy.ca.gov.

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