

**DOCKETED**

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<b>Project Title:</b>	Mission Rock Energy Center
<b>TN #:</b>	223626
<b>Document Title:</b>	Order Denying Motion to Terminate Order Suspending Proceedings and Third Revised Scheduling Order
<b>Description:</b>	Proceedings are suspended until July 1, 2019.
<b>Filer:</b>	Susan Cochran
<b>Organization:</b>	Energy Commission Hearing Office
<b>Submitter Role:</b>	Committee
<b>Submission Date:</b>	5/31/2018 3:31:15 PM
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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](http://www.energy.ca.gov)

*APPLICATION FOR CERTIFICATION FOR THE:*

**MISSION ROCK ENERGY CENTER**

**Docket No. 15-AFC-02**

## **ORDER DENYING MOTION TO TERMINATE; ORDER SUSPENDING PROCEEDINGS; AND THIRD REVISED SCHEDULING ORDER**

### **Introduction**

On December 30, 2015, Mission Rock Energy Center, LLC (Applicant) submitted an Application for Certification (Application) to the California Energy Commission (Energy Commission) seeking permission to construct and operate a 275-megawatt (MW) natural-gas-fired power generation facility, the Mission Rock Energy Center (Proposed Project).<sup>1</sup> The Proposed Project would be located in Ventura County, near the city of Santa Paula. It would be located within the Moorpark subarea of the Big Creek/Ventura local reliability area and Southern California Edison's (Edison) service territory.<sup>2</sup>

The Energy Commission assigned a committee of two Commissioners<sup>3</sup> (Committee) to conduct proceedings on the Application.

The Application and all documents that have been filed in this proceeding may be viewed at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=15-AFC-02>

### **Background**

On November 27, 2017, Energy Commission staff (Staff) published the Preliminary Staff Assessment for the Proposed Project.<sup>4</sup> The Preliminary Staff Assessment provides Staff's independent assessment of the Proposed Project's potential environmental impacts and proposed mitigation measures for those impacts; the Proposed Project's compliance with applicable laws, ordinances, regulations, and standards; and the safety

<sup>1</sup> The Application can be found at <http://www.energy.ca.gov/sitingcases/missionrock/documents/afc.php>.

<sup>2</sup> TN 207151-2, p. ES-1.

<sup>3</sup> The Energy Commission appointed a Committee consisting of Karen Douglas, Commissioner and Presiding Member, and Janea A. Scott, Commissioner and Associate Member, at its Business Meeting on May 17, 2016 (TN 211537).

<sup>4</sup> TNs 211860, 221866.

and reliability of the Proposed Project.<sup>5</sup> Staff identified eight review areas in the Preliminary Staff Assessment that may either not comply with all applicable laws, ordinances, regulations, and standards; sufficiently mitigate impacts; and/or require additional information.<sup>6</sup>

Due to the large-scale Thomas Fire and subsequent mudslides, as well as Staff's need for additional information and potential re-issuance of the Preliminary Staff Assessment, the Committee suspended the comment period on the Preliminary Staff Assessment in January 2018.<sup>7</sup>

On February 7, 2018, Edison obtained approval from the California Public Utilities Commission to solicit proposals for energy and capacity resources to meet the needs of the Moorpark subarea of the Big Creek/Ventura local reliability area. Energy generation proposals are limited to preferred resources; energy storage; and in the Goleta area only, natural gas projects that are 55 MW or less. The solicitation schedule estimates that Edison would file its application for the approval of contract(s) to meet the energy demand in the Moorpark area with the California Public Utilities Commission in March 2019.<sup>8</sup>

#### Motion to Suspend and Motion to Terminate

On March 9, 2018, Applicant filed a "Notice of Suspension of Application for Certification." (Notice) The request to suspend was based on Edison's solicitation for proposals "which does not appear to present an opportunity for the [Proposed Project], as presently before the [Energy Commission], to participate." No duration for the suspension was given.<sup>9</sup>

The Hearing Officer indicated the Committee would treat the Notice as a motion and requested that the Applicant specify the duration of their requested suspension. Other parties and the public were invited to provide responses to the motion as well.<sup>10</sup>

In response, Applicant provided three conditions for calculating the requested suspension period but did not provide a definitive number of days or months.<sup>11</sup>

Staff filed a response indicating that it did not object to Applicant's proposed suspension or the length of the suspension.<sup>12</sup>

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<sup>5</sup> Cal. Code Regs., tit. 20, §1742.

<sup>6</sup> TN 221861. Eight review areas include air quality/greenhouse gases, cultural resources, environmental justice, land use, soil and water resources, traffic and transportation, power plant reliability, and transmission system engineering.

<sup>7</sup> TN 222262

<sup>8</sup> <https://efiling.energy.ca.gov/getdocument.aspx?TN=223249>. Page 9 of the pdf file indicates that Edison "will only solicit Preferred Resources and energy storage connected to the Moorpark and Santa Clara 230/66 kV A-bank substations..." The schedule for the Procurement Plan may be found on page 27 of the pdf file.

<sup>9</sup> TN 222943.

<sup>10</sup> TN 222975.

<sup>11</sup> TN 222999.

Intervenor Wishtoyo Foundation filed a response to the motion, opposing the suspension and requested that the Committee terminate the Application. Wishtoyo Foundation asserted that in light of Edison's solicitation for proposals, the Proposed Project is not needed. Wishtoyo Foundation argued that Applicant had requested a suspension for an "unspecified period of time and without an indication of what it will do to pursue the [Application] with 'due diligence'".<sup>13</sup> Other members of the public also filed comments supporting termination of the Application.<sup>14</sup>

The Committee issued an order, notifying the parties and the public that it was treating the Wishtoyo Foundation's argument as a motion to terminate and extended the time to rule on the motion to suspend until May 31, 2018. That Order also provided Applicant with the opportunity to respond to the motion to terminate.<sup>15</sup>

Applicant's response to the motion to terminate argues that it has diligently pursued the Application. Applicant contends that the Wishtoyo Foundation based its request for termination on "unfounded speculation, rather than evidence" and that the Application could be pursued by the Applicant regardless of "need" for the project.<sup>16</sup>

Staff's response to the motion to terminate discussed the likely proposals in response to Edison's request for proposals and the impending retirement of natural-gas-fired power plants that may require new sources of energy to meet the local reliability needs of the Moorpark subarea. Accordingly, Staff did not support termination and did not object to an indefinite suspension.<sup>17</sup>

## **Discussion**

### ***Motion to Terminate***

Under California Code of Regulations, Title 20, Section 1720.2, a motion to terminate an application for certification may be brought by the committee or any party and may be granted where an applicant has failed to pursue an application with "due diligence."<sup>18</sup>

In reviewing the arguments of the parties, we find that it is premature to terminate the Application. Until Edison's request for proposals was issued, the Application had been proceeding as required under the Committee's Second Revised Scheduling Order.<sup>19</sup> While the Committee suspended the comment period for the Preliminary Staff Assessment, not all of the delay is attributable to the Applicant.

Moreover, we are persuaded by Staff's recitation of the uncertainties in the Moorpark subarea of the Big Creek/Ventura local reliability area due to the retirement of existing

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<sup>12</sup> TN 223033.

<sup>13</sup> TN 223032-1.

<sup>14</sup> TNs 223036, 223039.

<sup>15</sup> TN 223099.

<sup>16</sup> TN 223191.

<sup>17</sup> TN 223161.

<sup>18</sup> Cal. Code Regs., tit. 20, §1720.2.

<sup>19</sup> TN 222008.

natural gas facilities. The Committee also shares Staff's caution in terminating the proceeding until we have more information on the outcome of Edison's request for proposals. We find that the Applicant's request that this proceeding be suspended demonstrates prudence, not a lack of diligence.

Accordingly, the motion to terminate is **DENIED** without prejudice.

### ***Motion to Suspend***

California Code of Regulations, Title 20, Section 1203 gives the presiding member broad powers to regulate the conduct of a proceeding.<sup>20</sup> This authority inherently includes determining if a proceeding should be suspended.

Based upon the parties' arguments, we find there is sufficient cause to suspend this proceeding until the results of Edison's request for proposals are known.

Therefore, the Committee **GRANTS** the motion to suspend and **SUSPENDS** this proceeding until July 1, 2019. Furthermore, the Committee **ORDERS** status reports to be filed by the parties by October 1, 2018, April 1, 2019, and June 1, 2019. The status reports shall include any information that would allow the Committee to determine whether the Application is progressing satisfactorily, as well as bring other relevant matters to the Committee's attention.

### ***Scheduling Order***

In light of the foregoing, the Committee hereby **ADOPTS** a new schedule, as set forth in Attachment "A" to this order.

### **Public Participation**

Information concerning the status of the Proposed Project, as well as notices and other relevant documents, may be viewed on the Energy Commission's web page at:

[www.energy.ca.gov/sitingcases/missionrock/](http://www.energy.ca.gov/sitingcases/missionrock/)

Members of the public are welcome to attend public meetings and hearings and offer oral or written comments throughout the proceedings. It is not necessary to be an intervenor to participate in the public process. Written comments may also be submitted electronically by visiting the Energy Commission's website at the above address and clicking on the "Submit e-Comment" link in the "Original Proceeding" box. Otherwise, written comments may be submitted by e-mailing them to [docket@energy.ca.gov](mailto:docket@energy.ca.gov), or by mailing them by U.S. Mail to:

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<sup>20</sup> Cal. Code Regs., tit. 20, § 1203, subd. (c).

California Energy Commission - Docket Unit  
Docket No. 15-AFC-02  
1516 Ninth Street, MS-4  
Sacramento, CA 95814

**For all comments, please include the docket number and proceeding name (“15-AFC-02 Mission Rock Energy Center”) in the subject line and on the cover page.**

**PLEASE NOTE:** 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 Energy Commission Contacts**

The Energy Commission’s Public Adviser’s Office provides the public with assistance in participating in Energy Commission proceedings. For assistance, please contact Alana Mathews, Public Adviser, by e-mail at [PublicAdviser@energy.ca.gov](mailto:PublicAdviser@energy.ca.gov) or at (916) 654-4489, or toll free at (800) 822-6228.

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

Technical questions concerning the Proposed Project should be addressed to Mike Monasmith, Project Manager, by e-mail at [mike.monasmith@energy.ca.gov](mailto:mike.monasmith@energy.ca.gov) or (916) 654-4894.

Media inquiries should be sent to the Media and Public Communications Office by e-mail at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov) or at (916) 654-4989.

Dated: May 31, 2018, at Sacramento, California

*Original Signed by:*

*Original Signed by:*

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KAREN DOUGLAS  
Commissioner and Presiding Member  
Mission Rock Energy Center Committee

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JANEA A. SCOTT  
Commissioner and Associate Member  
Mission Rock Energy Center Committee

**ATTACHMENT A  
MISSION ROCK ENERGY CENTER SCHEDULE  
MAY 2018**

<b>ACTIVITY</b>	<b>DATE COMPLETED OR DUE</b>
Application for Certification filed by Applicant	December 30, 2015
Application found Data Adequate	May 17, 2016
Discovery closes <sup>21</sup>	February 23, 2017
Ventura County Air Pollution Control District (VCAPCD) issues Preliminary Determination of Compliance (PDOC)	October 13, 2017
Preliminary Staff Assessment (PSA) Published	November 27, 2017
Status Reports	October 1, 2018; April 2, 2019; June 3, 2019
Revised PSA Published	TBD
Staff Workshop on Revised PSA	TBD
VCAPCD Issues Final Determination of Compliance (FDOC)	TBD
Final Staff Assessment Published (FSA) <sup>22</sup>	TBD
All Parties File Opening Testimony	TBD
All Parties File Rebuttal Testimony	TBD
Last day to file Petition to Intervene <sup>23</sup>	30 days before first Evidentiary Hearing
All Parties File Prehearing Conference Statements with Exhibit Lists	TBD
Prehearing Conference (PHC)	TBD
Evidentiary Hearings (EH)	TBD
All Parties File Opening Briefs (if determined to be necessary)	TBD
All Parties File Reply Briefs (if determined to be necessary)	TBD
Committee Files Presiding Member's Proposed Decision (PMPD)	TBD

<sup>21</sup> Discovery closes 180 days after the determination of data adequacy unless otherwise ordered by the Committee for good cause. (Cal. Code Regs., tit. 20, § 1716.)

<sup>22</sup> Publication of the FSA will occur after receipt of both the FDOC and the results of the Cluster 10 Study by the California ISO.

<sup>23</sup> "A petition for intervention shall be filed no later than the deadline established by the presiding member, or if none is established, at least 30 days before the first evidentiary hearing in the proceeding." (Cal. Code Regs., tit. 20, § 1211.7, subd. (b).)



Committee Conference on PMPD	TBD
Close of Public Comment Period on PMPD	30 days after publication of the PMPD
Committee Files Errata or Revised PMPD (if necessary)	TBD
Energy Commission Final Decision	TBD