

**DOCKETED**

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<b>Filer:</b>	Eric Janssen
<b>Organization:</b>	Ellison Schneider Harris & Donlan LLP
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February 4, 2019

John Heiser  
Compliance Project Manager  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814-5512

RE: Russell City Energy Center (01-AFC-07C): Comments on the *Staff Analysis of the Petition to Amend to Add Black Start Capability*

Dear Mr. Heiser:

On behalf of the Russell City Energy Center (01-AFC-07C; “RCEC”), Russell City Energy Company, LLC (“Project Owner”) hereby submits these comments on the Conditions of Certification (“Conditions”) proposed by California Energy Commission (“Commission”) Staff relating to the *Petition for Modification: Black Start Capabilities*.<sup>1</sup>

The Project Owner does not object to the proposed modifications to Conditions of Certification (“Conditions”) AQ-19, A-22, AQ-23, and AQ-26<sup>2</sup> or the addition of Conditions AQ-50 to AQ-54.

The Project Owner recommends that Condition Worker Safety-3 be revised as set forth below. Proposed Condition Worker Safety-3 has two components. The first component requires submission of fire protection drawings and specifications for the Battery Energy Storage System (“BESS”) to the Hayward City Fire Department (“HCFD”), to the Delegate Chief Building Official (“DCBO”), and to the Compliance Project Manager (“CPM”). This component will ensure that the BESS and fire suppression system are constructed in compliance with all applicable laws, ordinances, regulations, and standards (“LORS”). The Project Owner does not have any objections to this component.

The second component requires the Project Owner to “collaborate with Hayward City Fire Department to assist in any needed modifications of their [HCFD’s] standard operating procedures for first responders to implement when confronting a fire occurring within the BESS located on site.” As discussed below, this second requirement is not required to ensure compliance with any applicable LORS or to mitigate any potentially significant impact from the proposed modification.

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<sup>1</sup> TN#: 222836.

<sup>2</sup> Proposed by Commission Staff to conform the CEC certification to the facility’s Title V permit.

First, there are no applicable LORS requiring a private entity like RCEC “to assist in any needed modifications” of a duly formed and operating fire department’s “standard operating procedures for first responders.” Requiring the RCEC to “collaborate” on potential modifications to the internal operating procedures of the HCFD is not needed to ensure that the BESS will be constructed and operated in compliance with applicable LORS. As discussed above, LORS compliance during construction and operations will be ensured by HCFD review and CPM approval of the fire protection drawings and specifications for the BESS. Moreover, the language proposed is not designed to address any potentially significant effects from the proposed modification. Thus, the second requirement is not required by either applicable LORS or to mitigate any potential impacts from the proposed modification. (See generally, Public Resources Code §§ 21081, 25523, 25525; 20 C.C.R. § 1748.)

Second, RCEC will, of course, continue to work with HCFD, as it has done so historically. However, RCEC believes this coordination should be done on an informal basis, as determined necessary by HCFD, rather than through a formal condition of certification imposed by the Commission. The HCFD is in the best position to determine its own operational needs. RCEC is concerned that a condition requiring the facility to “collaborate” on modifications to the HCFD’s standard operating procedures interjects the RCEC into the internal working and decision-making processes of HCFD.

Therefore, the Project Owner recommends the following modifications to proposed Condition WORKER SAFETY-3:

**WORKER SAFETY-3. The project owner shall submit the fire protection drawings and specifications for the Battery Energy Storage System (BESS) to the Hayward City Fire Department for review and comment, to the Delegate Chief Building Official (DCBO) for plan check and inspection, and to the CPM for review and approval. The project owner shall also collaborate with the Hayward City Fire Department to assist in any needed modifications of their standard operating procedures for first responders to implement when confronting a fire occurring within the BESS located on site.**

**Verification:**

**(1) At least sixty (60) days prior to the start of construction of the BESS project, the project owner shall:**

**(a) Provide the complete set of BESS fire protection drawings and specifications to the Hayward City Fire Department for review and comment, and to the DCBO for plan check approval and construction inspection, and to the CPM for review and approval, and:**

**(b) Provide a copy of a letter from the project owner to the Hayward City Fire Department offering collaboration and assistance with standard operating procedures for first responders to any fires that might occur within the BESS.**

These recommended revisions will ensure that the proposed modifications are implemented consistent with applicable LORS, but will avoid interjecting the Project Owner into the internal operating practices of HCFD.

The Project Owner requests that the Commission approve the Petition and adopt the proposed revisions to Condition Worker Safety-3 described above.

Respectfully submitted,



Dated: February 4, 2019

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