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STATE OF CALIFORNIA

State Energy Resources Conservation and
Development Commission

In the Matter of:

WILLOW ROCK ENERGY
STORAGE CENTER

Docket No. 21-AFC-02

INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S
RESPONSE TO APPLICANT'S MOTION TO AMEND THE REVISED
SCHEDULING ORDER

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**INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S
RESPONSE TO APPLICANT'S MOTION TO AMEND THE REVISED
SCHEDULING ORDER FOR THE WILLOW ROCK ENERGY STORAGE CENTER**

In accordance with the California Energy Commission's (the "CEC") Revised Committee Scheduling Order (the "Revised Scheduling Order") (TN259084) for the Willow Rock Energy Storage Center proceeding (21-AFC-02), the Center for Biological Diversity (the "Center") submits this response to GEM A-CAES, LLC's (the "Applicant") Motion to Amend the Revised Scheduling Order for the Willow Rock Energy Storage Center (TN260431).

While expedited scheduling may benefit the Applicant, the Committee must prioritize a balanced, transparent, and thorough review process without compromising due diligence or due process. Here, the Applicant has failed to demonstrate good cause for modifying the Revised Scheduling Order, which remains reasonable and appropriate under the circumstances, nor has it provided sufficient justification to warrant an expedited timeline. For these reasons, and as detailed below, the Center respectfully requests that the Committee deny the Applicant's Motion.

I. The Applicant has not shown good cause to modify the Revised Scheduling Order.

As outlined in the Revised Scheduling Order, the "Committee may modify the schedule at any time for good cause." (TN259084 at 7.)¹ Additionally, the November 18, 2024, Hearing Officer Memorandum submitted on behalf of the Committee, requires, in part, that any motion requesting relief from the current schedule include

¹ Pinpoint citations refer to the page numbers of the docketed PDF.

a proposed schedule accompanied by “documentation of the facts and rationale that compel the expedited timeline” (TN260133). Here, the Applicant has neither demonstrated the requisite “good cause” to warrant modifying the existing schedule nor provided sufficient justification to compel an expedited timeline.

A. The Applicant’s federal funding claims are speculative and unsupported by the record.

The Applicant asserts that the current schedule adversely impacts California’s ability to secure federal clean energy initiatives, citing an October 7, 2024, letter from the U.S. Department of Energy (“DOE”) and alleging “CEC-induced delays” (TN260431 at 6). However, the record does not substantiate this claim.

Contrary to the Applicant’s assertions, the DOE’s letter explicitly states that federal agency consultations are ongoing and that the NEPA and CEQA processes are kept aligned (TN259605 at 11). Claims that CEC’s timeline in this case would shift federal funding to other jurisdictions are speculative and unsubstantiated. (*See* TN260431 at 6.)

Additionally, the Applicant’s reference to “CEC-induced delays” (TN260431 at 6) ignores that the Supplemental AFC proposed a “substantially reconfigured and relocated project,” effectively resetting the review process (*see* TN259084 at 5). The Revised Scheduling Order already provides flexibility to advance proceedings without revising the schedule. For example, the Applicant’s timely and satisfactory responses to data requests could accelerate all subsequent deadlines. (*See* TN259084 at 10.)

B. The Applicant prioritizes private deadlines over public interests.

The Applicant's focus on meeting commercial deadlines, such as those tied to offtake agreements (TN260431 at 6–7), prioritizes the Applicant's interests over the public's need for a thorough review. Under the Applicant's proposed schedule, Parties would need to submit final data requests by December 14 to accommodate the Applicant's 30-day response timeline and allow CEC Staff 45 days to prepare and file the Preliminary Staff Assessment ("PSA") by February 27, 2025. (*See* TN260431 at 10 (proposing February 27, 2025, or 45 days after January 13, 2025, as the PSA filing deadline).) As a result, the proposed expedited timeline reduces the discovery period by 30 days, depriving Parties of the standard 180-day period provided under CEC regulations (Cal. Code of Regs., tit. 20, § 1716(e)) for submitting data requests after the Supplemental AFC's verification.

Accelerating the review process for a novel and complex project like Willow Rock Energy Storage Center—one that presents unique technological, environmental, and grid integration challenges—risks overlooking critical issues. Such oversights could lead to increased costs, operational inefficiencies, or unanticipated challenges during construction or operation, and increase the risk of unanticipated environmental impacts that could and should have been identified avoided, minimized, and mitigated.

The Applicant's general claims that delays will increase costs to ratepayers from this project ignores there are many other long-term storage and generation projects that are under review that may be less costly in term of both direct consumer costs and avoided environmental harms. California's procurement needs can be met

in a variety of ways including through demand-side management strategies which can bridge potential gaps in energy reliability and distributed renewable energy projects which provide resiliency. The need for additional procurement writ large does not provide a basis to compromise the thorough review process essential for this novel project.

Notably, the Applicant asserts that construction must commence in 2025 to deliver energy by 2030 without penalty (TN260431 at 7). However, even under the proposed expedited schedule, the feasibility of meeting this timeline remains uncertain. For example, seasonally appropriate pre-construction biological surveys and necessary incidental take permits for protected species—such as western Joshua trees, Crotch’s bumblebee, and potentially burrowing owls—would need to be completed before construction begins.

II. The Applicant’s proposed schedule undermines due process.

The Center has a vested interest in safeguarding the public’s ability to participate fully in this process and ensuring that CEC staff has sufficient time to review and respond to public comments comprehensively.

While the Applicant emphasizes opportunities for public involvement (TN260431 at 8), procedural notice, comment periods, and hearings alone do not guarantee substantive engagement. Meaningful public engagement requires sufficient time for review, comment, and response to ensure all voices are meaningfully heard and considered. For example, the Applicant’s proposal to reduce the Final Staff Assessment filing timeline from 45 days to 30 days after the PSA

comment period (TN260431 at 10) is likely inadequate, particularly if a large volume of public comments is received. Shortening this timeline risks undermining the quality of the CEC Staff's review and its ability to adequately address public concerns.

Moreover, as explained in Section I.A., *supra*, the Revised Scheduling Order already provides flexibility to advance proceedings without compromising public participation. Specifically, the Applicant's timely and sufficient responses to data requests could expedite other deadlines while maintaining the integrity of stakeholder engagement.

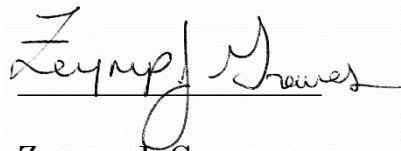
III. Conclusion

While expedited scheduling may benefit the Applicant, the Committee must prioritize a balanced, transparent, and comprehensive review process, which is essential to maintaining public trust and avoiding potential long-term consequences from insufficient review.

For these reasons, the Center respectfully requests that the Committee deny the Applicant's Motion to Amend the Revised Scheduling Order for the Willow Rock Energy Storage Center.

December 10, 2024

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Zeynep J. Graves", written over a horizontal line.

Zeynep J. Graves
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