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**ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of:)	
)	
Proposed Adoption of Regulations Establishing a)	
Greenhouse Gases Emission Performance Standard)	R.06-OIR-1
For Baseload Generation of Local Publicly Owned)	(October 30, 2006)
Electric Utilities.)	

**COMMENTS OF THE
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER
DISTRICT, AS OPERATING AGENT OF THE NAVAJO GENERATING STATION
REGARDING THE PROPOSED 15-DAY LANGUAGE CHANGES**

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May 21, 2007

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The Salt River Project Agricultural Improvement and Power District ("SRP"), as the Operating Agent of the Navajo Generating Station ("NGS"), herein submits these comments on the Proposed 15-Day Changes to Regulations Establishing and Implementing a Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities (the "Proposed 15-Day Changes") to supplement the comments filed with the California Energy Commission (the "Commission") on April 5, 2007 and on April 24, 2007. SRP submits these comments on behalf of the NGS co-owners, including itself, Arizona Public Service Company, Nevada Power Company, Tucson Electric Power Company, and the Bureau of Reclamation, hereafter referred to collectively as the "Non-Jurisdictional NGS Owners." The Los Angeles Department of Water and Power of the City of Los Angeles ("LADWP"), another co-owner of NGS, did not participate in these comments.

The Non-Jurisdictional NGS Owners appreciate the opportunity to submit these additional comments. We commend the Commission's hard work in drafting the Proposed 15-Day Changes and willingness to take into account our past comments in preparing the revised

regulations. In particular, the Non-Jurisdictional NGS Owners express gratitude for the revisions made to Section 2901(j)(4)(A), which provides that “routine maintenance” is not included within the definition of “new ownership investment.” Therefore, the Non-Jurisdictional NGS Owners understand that routine maintenance activities are not considered a “covered procurement” by the Commission. As the Non-Jurisdictional NGS Owners have asserted, routine maintenance activities are necessary in order to meet existing contractual obligations among plant owners and to preserve the reliability and safety of a plant. The Non-Jurisdictional NGS Owners look forward to a continued open working relationship with the Commission upon implementation of the regulations.

However, the Non-Jurisdictional NGS Owners have some concerns regarding the Proposed 15-Day Changes. Specifically, the Non-Jurisdictional NGS Owners have continuing concerns that certain provisions of the regulations lack clarity as required by the California Administrative Procedure Act.

I. The Non-Jurisdictional NGS Owners Request Further Clarification of § 2901(j)

In accordance with the California Administrative Procedure Act, the Office of Administrative Law (“OAL”) is required to review all regulations to ensure that the regulations meet a standard of “clarity,” among other standards, so that “the meaning of regulations will be easily understood by those persons directly affected by them.” See Cal. Gov’t Code §§ 11349.1(a), 11349(c). The Non-Jurisdictional NGS Owners continue to maintain that Section 2901(j), containing the definition of “new ownership investment,” will not meet the Administrative Procedure Act’s standard of review for clarity.

Section 2901(j)(4) provides that “any investment” in an existing, non-deemed compliant powerplant that is designed and intended to extend the life of the plant by five years or more

would be considered a “new ownership investment.” As the Non-Jurisdictional NGS Owners have previously articulated, that definition is ambiguous with respect to whether “any investment” means all expenditures of money at a power plant or is limited to significant investments. See Supplemental Comments of the Salt River Project Agricultural Improvement and Power District, as Operating Agent of the Navajo Generating Station, at 2-3 (April 24, 2007) (the “Supplemental Comments”). Additionally, the Non-Jurisdictional NGS Owners have argued that the Section 2901(j)(4)(A) lacks clarity regarding which activities would extend the life of a plant by five or more years and from what point in time such an extension would be calculated. Id. 3-4.

Moreover, the Non-Jurisdictional NGS Owners agree with the comments filed by the Natural Resources Defense Council and the Union of Concerned Scientists concerning the argument that existing contracts for power plants should be excluded from the operation of the Commission’s regulations altogether. See Comments of the Natural Resources Defense Council (NRDC) and the Union of Concerned Scientists (USC) on the Proposed Regulations Establishing and Implementing a Greenhouse Gasses Emission Performance Standard for Local Publicly Owned Electric Utilities, at 5 (April 25, 2007) (hereinafter referred to as “NRDC’s Comments”). As noted in NRDC’s Comments, “[Senate Bill] 1368’s intent was not to apply to existing contracts, and we also believe that the same should also apply to existing contractual obligations, such as joint ownerships or joint power arrangements (JPA).” Id.

The Non-Jurisdictional NGS Owners contend that further consideration of the two alternative definitions for “new ownership investment” set forth in our Supplemental Comments would address each of these matters. See Supplemental Comments, at 6-8. Either of the

suggested revisions to the definition of “new ownership investment” would eliminate the uncertainty as currently exists in the Section 2901(j).

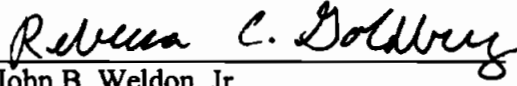
Each of the proposed definitions of “new ownership investment” set forth in the Supplemental Comments would ensure that there are no violations of existing contractual obligations of local publicly owned utilities. Id. In the first proposed definition for “new ownership investment,” financial expenditures for existing power plants for ongoing operations, maintenance, repair and replacement would not fall within the purview of the regulations. Id. at 6-7. In the second proposed definition for “new ownership investment,” the Non-Jurisdictional NGS Owners put forward that a “new ownership investment” would include financial commitments to “upgrade” one or more generating units at a power plant. Id. at 7-8. The proposed definition of “upgrade” provides specificity as to whether certain activities are a covered procurement. Moreover, either of the revisions of “new ownership investment” would eliminate the uncertainty associated with the issues surrounding the five year extension language. Id. at 6-8.

II. Conclusion

For the foregoing reasons, SRP, on behalf of the Non-Jurisdictional NGS Owners, respectfully requests that the Commission further clarify the Proposed 15-Day Changes so that the definition of “new ownership investment” is unambiguous with respect to whether all expenditures of money at a power are investments, which activities trigger the five year life extension period, and consider whether the regulations should apply to existing power plants.

Dated: May 21, 2007

Respectfully submitted,


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