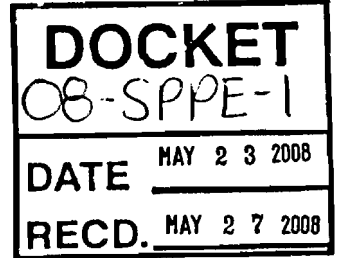


STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION

In the Matter of:)
Application for a Small Power Plant)
Exemption for the Riverside Energy)
Resource Center, Units 3 & 4)
_____)

Docket No. 08-SPPE-1



Applicant Riverside Public Utilities Brief on SPPE Issues

On May 16, 2008 the Assigned Committee in the above-referenced proceeding filed a Scheduling Order. In that order, the Committee ordered Applicant and Staff to file briefs on the following:

Is the proposed addition by the Riverside Units 3 & 4 project of 95 MW to the existing 96 MW Riverside Energy Resource Center (RERC) Units 1 & 2 power plant eligible to be considered For exemption as a Small Power Plant

1. Legal Basis for SPPE Exemption

The statutory authority authorizing small power plant exemptions (SPPE) is contained in Chapter 6 of the Warren Alquist Act, Public Resources Code sections 25500 through 25543. Section 25541 authorizes the Commission to exempt a thermal power plant from its licensing jurisdiction if the plant has a generating capacity of 50 MW or more, but less than 100 MW. In addition to the size requirement, the Commission must also determine that a particular project will result in "no substantial adverse impact on the environment". Basically, there is a two-part test: size and anticipated environmental impacts.

The application for additional units at the RERC facility site is allowed under applicable regulations. 20 CCR 1936 provides: "a modification to an existing thermal power plant which will add generating capacity not exceeding 100 Megawatts may apply for an exemption...". The application by Riverside is such an addition.

It must be recognized that the Commission is not required to grant an SPPE. Code section 25541 specifies that the Commission may exempt a project being licensed. However, we believe that the RERC application is precisely the kind of power plant addition that was contemplated by the applicable regulations – the addition is less than 100 MW and will have no significant adverse impact on the environment.

The Application for a Small Power Plant Exemption describes the proposed plant addition. Two General Electric LM6000 combustion turbines in a simple cycle mode will generate nominally 95 MW of additional generation at the RERC site. The question raised by the Committee is whether this 95 MW should be combined with the RERC Units 1 & 2 96 MW, creating a project over 100 MW that must be considered under the AFC proceeding provisions. The RERC Units 3 & 4 additions to the Riverside grid were not planned and foreseeable at the time it proposed and constructed RERC Units 1 and 2. Therefore, there is no basis for considering the two projects as a single project.

Finally, PRC Section 25541 specifies that the SPPE process is appropriate for expansion projects less than 100 MW. No time limit between projects is specified in the code, so the analysis must consider if the second project was planned in sufficient detail when the first project was being developed. There is no evidence that RERC 3 & 4, simple cycle generation, was contemplated at that time. No public benefit would be served by re-evaluating units 1 & 2 again. The code also requires that an SPPE must not have any adverse impact on energy resources: as detailed below, the opposite is true – without SPPE treatment there would be an adverse impact on energy resources in Riverside.

2. Factual Planning Basis

The factual planning basis involves two distinct inquiries: the decision to construct RERC Units 1 & 2 and the decision to construct RERC Units 3 & 4. These two decisions are not connected and the decision to apply for units 3 & 4 was not contemplated at the time Units 1 and 2 were licensed.

a. Were Units 3 & 4 Contemplated When Units 1 & 2 were licensed?

RPU filed its Application for a Small Power Plant Exemption for RERC Units 1 & 2 on April 29, 2004. During the course of this proceeding, RPU was asked to provide “any and all documents related to Units 3 and 4” in CURE’s Data Request 1. RPU responded to this request on June 28, 2004 with a number of documents (See excerpts in Attachment A, hereto – the “Acorn” references refer to RERC Units 1 & 2). A review of the contents of these documents reveals the following:

RPU’s planning process contemplated licensing and constructing a single 50 MW facility from December 2002 until late in 2003. The plan was to construct one 50 MW facility to meet system loads in 2005 and another 50 MW to meet 2008 loads. Following discussions with the California Energy Commission staff in August, 2003 RPU started consideration of filing for a power plant of approximately 100 MW. This was the plan that would be ultimately approved by the Riverside City Council in February of 2004.

Plans for meeting system requirements beyond 2008 quickly went from additional simple cycle generation (May 3, 2003) to base-load, combined cycle generation. In June of 2003 the

estimate was that the City needed 120 MW of combined-cycle generation in 2012. This estimate was not revised in subsequent RPU documents.

Following the conclusion that 120 MW of combined cycle generation would be needed in 2012, the issue of RERC Units 3 & 4 being contemplated at the time Units 1 & 2 were filed for and approved ceased to be an issue.

b. System Facts and Planning following RERC Units 1 & 2

Riverside is in a somewhat unique situation. Currently, over 95% of power needed to serve RPU's customers must be imported to the City from the state transmission grid through a single point of interconnection ("Vista", which is owned and operated by SCE). The capacity at Vista is approximately 560 megawatts. For system reliability purposes, RPU has recognized the need for another point of interconnection since 1975, when it purchased the land for construction of the future facilities. However, system and resource planning, up to the construction of RERC Units 1&2, was strongly influenced by economics and the continued ability to import power through Vista. In its 2002 planning documents (as discussed above), RPU identified the need to enhance system reliability by building internal generation to serve emergency purposes, should Vista be temporarily compromised, but always relied upon the continued ability to import power to serve peak needs until a second point of interconnection was built.

RPU designed the site for RERC Units 1&2 to allow space for additional units, which would either serve baseload or peaking needs. RPU did not anticipate needing such additional units until at least 2010/2011. Subsequent to construction of RERC Units 1&2, RPU increased its efforts to construct the second point of interconnection to the state transmission grid, the cost of which was anticipated to be over \$200,000,000 (with completion initially anticipated in 2009). Multiple years of higher-than-previously-experienced increases in individual customer energy use, along with unforeseen delays in the completion of the second interconnection point, disrupted RPU's careful planning.

Historically, RPU's system expansion, for both new meters and customer energy usage, would increase at roughly the same rate. For example, from 1990-2001, meter growth during this eleven-year period was 14% and peak growth was 10%. (Peak is the single largest integrated hour of energy usage.) From 2002 to 2006, meter growth during this four-year period was only 7 % (an average growth rate), but peak usage during this same period shot up 31%. RPU's 2007 system peak of 610 MW is already 50 MW above the 560 MW import capability of the Vista substation. If this trend continued, by 2009 RPU would not only exceed its ability to import power through Vista but would also have insufficient internal generation to meet peak demands. The attached chart reflects the ability of RPU to import power, as compared to the increase in customer usage.

In response to this unprecedented disparity in growth, RPU shifted the focus of its planning perspective from power resource needs to system reliability requirements ("we can buy enough power to serve our customers' needs, but lack the infrastructure to be able to deliver it").

Traditionally, power resources planning differs from system planning in that economics, not system constraints, dictate strategy. The goal is to obtain the most cost-effective power resource available. With the predicted shortage of power in 2009, RPU now shifted from an emphasis on economical planning to reliability planning: what resource would enable RPU to serve customer energy demands, especially in times of peak demand.

RPU did five things to address this problem: (1) introduced a third tier to its residential electric rate structure to encourage conservation; (2) increased its conservation programs for customers; (3) suspended its Economic Development rate incentives to help insure existing capacity is reserved for existing customers; (4) increased its customer rebates for the installation of solar energy; and (5) began to develop RERC 3&4 for 2009 to serve peak load. Each of these steps are described in more detail below.

Third Tier: RPU adopted a third tier to its electric rates, to send a conservation signal to its customers. Customers who monthly used in excess of 750 kWh (winter) and 1,500 kWh (summer) would be charged a higher rate for their energy. (The monthly RPU residential customer demand, on an annual average, is 600 kw.)

Increase in Conservation Programs: In addition to its extensive conservation programs, RPU promoted peak energy use reduction with the following:

- RPU identified its customers' inefficient refrigerators and air-conditioners (especially those used in un-air-conditioned garages) as particularly troublesome. RPU increased rebates to customers who purchase energy efficient refrigerators (\$200) and air conditioners (10% of cost, up to \$750).
- Increase in rebates to customers who install whole house fans (\$200), which reduces need for air-conditioning.
- RPU partnered with an internet news service known as instantriverside.com to send customers tips on how to conserve and notify them during times of peak demand when conservation is particularly needed.
- RPU identified its top 20 customers and performed customized audits to reduce energy conservation, and publicized in-home weatherization audits to its customers.
- RPU opened its residential time-of-use rate (formerly limited to 1000 customers) to all customers. This rate allows customers to receive a lower off-peak rate for shifting electric use to off-peak periods.

Suspension of Economic Development Rate Incentives. A two-year rate discount had been offered as an enticement to specific types of businesses to relocate in Riverside or expand an existing business. Although this program had been very successful, RPU suspended this rate in 2006, because of the system reliability concerns caused by the recently trending increases in energy consumption. Power should be reserved for existing customers, instead of enticing new load to the City.

Photovoltaics: RPU has established a goal to increase solar generation in the City to 1 MW by 2015 (enough to power 1000 homes) and 3 MW by 2020. RPU recently increased its residential rebate to \$3 a watt, up to 50% of the cost of the installation, with caps of a) \$50,000 for residential and small commercial customers, b) \$200,000 for medium sized commercial customers, and c) \$500,000 for RPU's largest industrial customers. In addition, for educational facilities that commit to fund the entire project, RPU will rebate up to 80% of project costs, with a cap of \$250,000. To date, Riverside has 53 solar installations, providing 761.43 kw of solar generation.

System Planning for RERC 3&4: As noted above, the unexpected growth in customer energy usage meant that RPU's Vista capacity would be exceeded before the expected completion date of the second point of interconnection. RPU evaluated several other sites, including an adjacent property where the second point of interconnection would be located and various other sites throughout the City. None of these sites would allow a peaker unit to be constructed by 2009. Accordingly, RPU decided that the additional units at RERC would be peaker, not baseload, units, and planned to submit its SPPE application in 2008.

c. **Tenuous Nature of Transmission System**

RPU has traditionally relied on out-of-area generation resources for fulfilling the bulk of its system requirements. Power from the Northwest, Hoover Dam, the Intermountain Power Project, SONGS and Palo Verde has been available and is imported into Riverside through the Southern California Edison system. The sole SCE-Riverside point of connection is the 230/66kV Vista substation, located in Grand Terrace. This single point of interconnection has a capacity of 557 MW. RPU system peak requirements surpassed this limit in the summer of 2006 with its peak of 583 MW.

As noted above, RPU has been concerned that having a single point of interconnection to import the bulk of the city's energy requirements was too tenuous and represented a risk to the provision of uninterrupted power for its citizens. RPU and SCE have performed numerous studies and initiated many initiatives to add additional interconnect capacity since 1966. For example, In August 1999 RPU asked SCE what would be needed when the RPU loads exceed 560 MW. More recently, in June 2006 the ISO Board of Governors directed SCE to complete construction of the Riverside Transmission Reliability Project, which will establish a second point of interconnection to the SCE grid at a new substation in Riverside. Unfortunately, this project has been delayed until the 2012 time frame.

To highlight the City's concern, the Vista substation lost three of its five of its seven lines on October 26, 2007 due to one of the many fires in Southern California. The remaining two lines tripped on overload, leaving the City black. Riverside was black for a short period of time, and had the system fully restored in four hours.

The unanticipated growth in peak demand, coupled with the tenuous nature of the single point of interconnection for the importation of power, makes it imperative that RPU develop its own generation resources in a timely manner.

3. No Substantial Adverse Impact on the Environment

The SPPE process requires that the project under review will not result in a substantial adverse impact on the environment. RPU submitted its Application for Certification for Small Power Plant Exemption on March 19, 2008. In this document all environmental areas were evaluated and found to result in less than significant environmental impacts. This is due to two major factors: (1) significant mitigation was incorporated into the base project, and (2) the proposed site is ideal for the construction and operation of the proposed power facility.

(a) Traditionally applicants have evaluated a project's impacts and the individual resource section authors suggest possible mitigation measures. In the RERC 3&4 application, the resource authors incorporated the mitigation measures into the project and then evaluated the potential environmental impacts.

(b) The proposed RERC Units 3&4 will be constructed on a graded parcel of land within the RERC compound. The proposed facility will be located next to the existing waste water treatment facility and the existing Units 1&2. The parcel will be hidden from public view and well away from any sensitive receptors. There will be no impacts to cultural, paleontologic, geology resources and the only impact on biological resources will be to the habitat for burrowing owls created in conjunction with Units 1&2. Due to the location, noise and visual impacts, and impacts on land use and agriculture, will be minimal and water will be available from the waste water treatment facility. Impacts to socioeconomic resources and hazardous materials handling will have minimal impacts and public health impacts will be negligible.

(c) Staff issued its Issues Report on May 8, 2008. In this document, Staff determined that there is only one area that could be considered a major issue. That issue is Air Quality, but the issue is whether the project will be able to purchase the RECLAIM trading credits and PM10 ERCs necessary to offset project operations. Applicant is confident that the trading credits and ERCs will be available, but if they are not available, Applicant has proposed to run the four units in a manner consistent with the offsets acquired for Units 1&2. Also it must be noted that RERC 3&4 has agreed to the lowest NO_x levels imposed on any plant in the United States. There is not potential substantial adverse impact on the environment.

In addition to the required discussion on how appropriate the SPPE process is for RERC 3&4, the Assigned Committee requested that the Applicant address the environmental review by other agencies and the environmental compliance of Units 1&2.

4. Environmental Review by Other Agencies

Applications to construct RERC Units 3&4 were submitted to SCAQMD on April 17, 2008. SCAQMD determined the applications to be complete on May 17, 2008 and is committed to process the applications in accordance with SCAQMD Regulation II. The SCAQMD permit applications contain much of the same data and analysis that are contained in the SPPE application; including an emissions inventory, BACT analysis, emission offset calculations, ambient air quality analyses, health risk assessments and rule compliance analyses to demonstrate how the project qualifies for SCAQMD construction and operating permits and how the facility will remain in compliance with applicable regulations.

RPU filed a Multiple Species Habitat Conservation Plan with the Western Riverside County Regional Conservation Authority for RERC 1&2 on March 3, 2005. There has been no further contact with this agency.

Finally, the City is a co-permittee of a National Pollution Discharge Elimination System permit, pursuant to the Clean Water Act. All of the City's construction activities must conform to this permit. As part of the construction for RERC Units 3&4, the contractor will be responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) and monitoring plan required by the State Storm Water Construction Permit for all phases of project construction, and is subject to review by the Regional Water Quality Control Board for the Santa Ana Region.

5. History of Units 1&2 With Respect to Environmental Compliance

Compliance with air quality permits. Since the commissioning of Units 1&2, the units have demonstrated compliance with SCAQMD permits and regulations through the use of continuous monitoring of NO_x and CO emissions, and through source emission tests. Compliance source tests were conducted for all pollutants upon commissioning of the units in mid-2006. Unit 1 was again tested for PM in February, 2007. SCAQMD also conducted a test of NO_x and PM from both units in 2007. Ammonia slip was tested quarterly during the first year of operation and annually thereafter. The NO_x and CO CEMS is subject to relative accuracy test audits annually, or every six months, depending upon demonstrated accuracy. SCAQMD also conducts in-depth annual inspections and compliance audits for RECLAIM facilities. To our knowledge, SCAQMD has not identified any significant compliance issues at RERC Units 1&2. The City has not received any citizen complaints related to RERC Units 1&2.

6. CEQA Policy Considerations

The Commission, in a companion proceeding, stated that the SPPE process should be reserved for projects that "are essentially 'no problem' facilities and that the SPPE process should be reserved for situations where it is clear cut that the process is appropriate. RPU does not currently have any plans for project changes, and does not contemplate any in the future. RPU's planning is complete and the project described in the SPPE application is the project that

RPU intends to build. Additionally, Staff has reviewed the proposal and has identified only the lack of ERCs as a project issue. Clearly, the RERC 3&4 project is appropriate for the SPPE process.

7. RPU's Portfolio of Renewable Energy

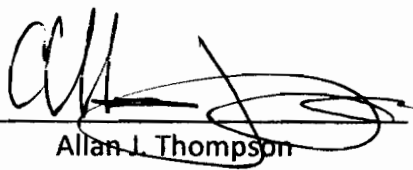
At the May 12, 2008 site visit, the CEC commissioners inquired as to RPU's efforts to reduce its dependence on coal-burning power resources. RPU has adopted a goal to have its energy resources portfolio be comprised of 33% renewable sources by 2020. RPU plans to have 30% renewables by 2010.

Approximately 16% of RPU's power resources are obtained from the Deseret Generation & Transmission Co-Operative, a coal-burning plant located in Utah. This contract expires on December 31, 2009, and RPU has no plans to renew or extend. Instead, RPU has contracted for 90 MW of geothermal energy. Of the 90 MW, 26 MW will come from the Salton Sea Unit 5 LLC, starting in June of 2009, and 64 MW will come from the Renaissance Shoshone LLC, beginning on January 1, 2010. (Note: the latter agreement is scheduled for City of Riverside approval on June 17, 2008, with RPU staff recommending such approval.)

When combined with RPU's existing renewable portfolio of landfill gas (5 MW), wind (1 MW), solar (.08 MW) and geothermal (20 MW), RPU will have 34% renewable generation by 2010. With its proposed resource plan that recommends meeting all future requirements with renewable resources, RPU plans to have almost 50 percent of its retail energy requirements met by renewable resources by 2020. With such percentages, RPU expects that it will lead all other Southern California utilities, both municipal and investor-owned, in the amount of renewable in its energy portfolio.

May 23, 2008

Respectfully submitted:



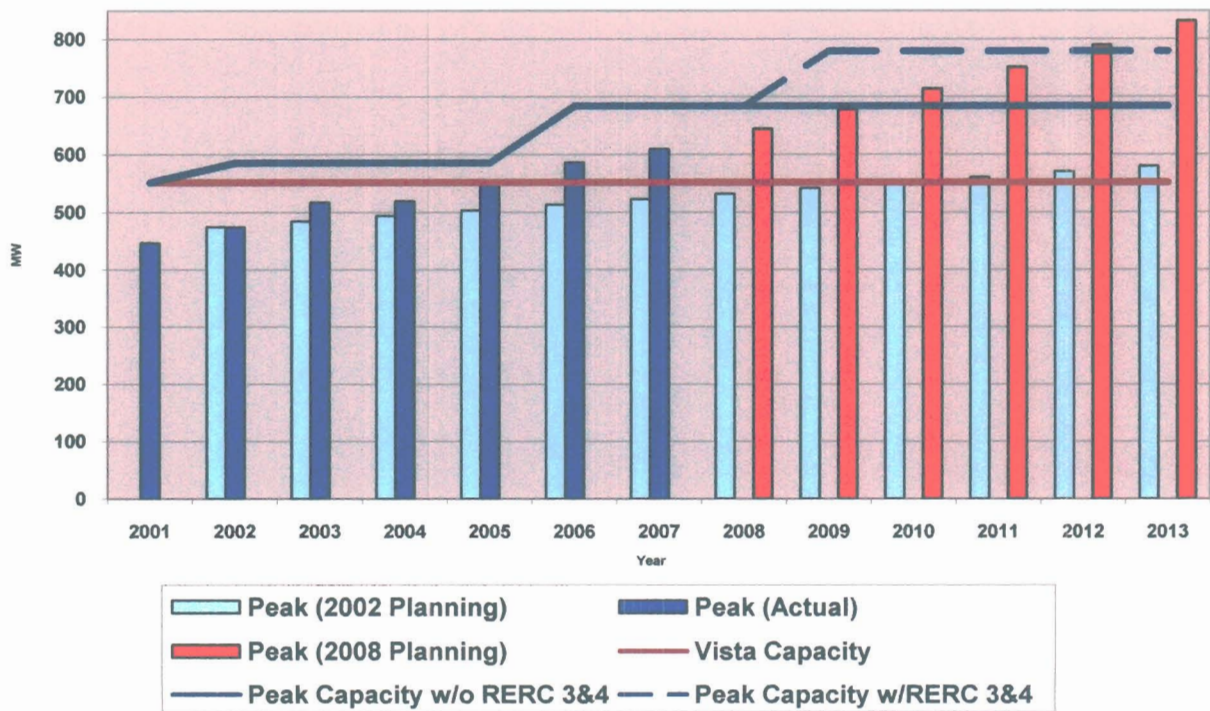
Allan J. Thompson
21 "C" Orinda Way #314
Orinda, CA 94563

And

Susan Wilson
Deputy City Attorney
City of Riverside
3900 Main Street
Riverside, CA 92522

Chart presented at CEC Site Visit and Public Workshop

May 12, 2008



ATTACHMENT 1

2002 – 2003 Riverside Public Utilities Planning Documents
[Filed with CEC on June 28, 2004 in Docket No 04-SPPE-01]

1. City Council Memorandum, 2002 Power Resources Expansion Plan, December 17, 2002.

A chart labeled "Riverside Capacity Balance, Base Case (2003-2008)" which shows that Riverside Public Utilities anticipated that the utility's peak demand would rise from approximately 480 MW in 2002 to approximately 540 MW in 2008. The document includes a "Resource Needs/Options Summary" which anticipates new contracts for generation and internal generation additions of 50 MW in 2005 and 50 MW in 2008. No additional internal generation was anticipated through 2010.

2. Meeting Notes, May 6, 2003, 5 Pages. Key assumption:

"RPU's Plan is to have a new 50 MW peaker operational by May 2005. A second unit is anticipated in 2008. RPU's contract for Baseload power expires in 2010-2011 creating the need for another 50 MW. Thus the plant could ultimately evolve into a 2x1 or a 3x1 power plant. The site layout and conceptual design should keep this in mind." (page 1)

and

"Everyone agreed that given that RPU is adding 50 MW now with a subsequent addition of another 50 MW in three years, that going with a single 50 MW class machine is the right approach". If the subsequent addition 50 MW was going to take place, then one of the other options may have been more attractive to provide some redundancy. (Page 2-3)

3. 50MW Peaker Plant Engine Evaluation, May 19, 2003, Power Engineers. Key assumption:

"Longer term, RPU expects to need an additional 50 MW by May 2008. Beyond that, it may be necessary (to) add additional base load generating capacity when the current base load energy supply contract expires in 2010." (Page 2)

and:

"Thus the new power plant site and design is being developed to accommodate the addition of a second unit with subsequent conversion to a 2x1 or 3x1 combined cycle plant." (Page 2)

4. Owner's Engineer Project Meeting Minutes, June 24, 2003. Key provisions:

"NEW ITEM – based on the benefit of the 50 MW plant, RPU wants to explore a bigger plant (up to 150-200 MW) that would cover their intermediate duty loads of 8 AM to 10 PM, five days a week (3,640 hours). Discussed expansion to a 1x1 or 2x1 combined cycle now. Given the nightly cycling of the plant, the complication of cycling a steam plant, and that since we would now be over 50 MW and CEC permitting would be required, another option that was discussed was to consider larger aeroderivatives (greater than 50 MW) and go with a simple cycle plant. As a result, POWER will evaluate the following options: 1. 1x1 LM6000 with a steam turbine sized for two CTs 2. 2x1 LM6000 3. 2x0 Trent 4. 2x0 FT8T TwinPak Plus

5. Acorn Generation Project, Owner's Engineer Project Meeting Minutes, June 24, 2003

"General Arrangement – reviewed the initial GA with several comments resulting: Based on the proceeding, and RPU needing 50 MW of peaking in 2005, another 50 MW of peaking in 2008, and 120 MW of base/intermediate in 2012, develop the GA showing the maximum generation potential (assume all LM6000s for now). The most practical way to do this is to layout the engines on an east-west axis." (Comment 2, Page 2)

"Action items (all items for Power unless otherwise noted) 17. Develop a comparison for the following four configurations based on heat rate and output at 100F, and 14x5x52 service:

- 1x1 LM6000 with a steam turbine sized for two LM6000s
- 2x1 LM6000
- 2x0 Trent
- 2x0 FT8 TwinPak Plus"

6. Plant Configuration Study – Initial Results – Addendum 1, Power Engineers, July 1, 2003

"Based on the close estimated financial performance of the different options, at this point we recommend the following approach:

- Proceed with aeroderivative combustion turbines in simple cycle
- Obtain firm competitive bids for General Electric LM6000, Pratt & Whitney FT8-3, and Rolls Royce Trent engines. Both the LM6000 and FT8-3 are currently available as dual fuel engines
- Develop refined cost estimates for the options
- Select the final option"

And

"If on the other hand, you want to focus on a LM6000 based plant, then we would recommend proceeding with a 3x0 simple cycle plant. This would still have the ability to be converted to a combined cycle facility at a later date."

7. Acorn Generation Project, Owner's Engineer Project Meeting Minutes, July 9, 2003

"Plant Configuration – We had an extensive discussion on the plant configuration. RPU will make a final decision in the next two months. In the meantime, POWER will resume the conceptual design based on the original plan of a 1x0 MW Lm6000 peaker. POWER needs to look into whether the CEC differentiates between an expansion (add a steam turbine to convert to combined cycle) and adding another combustion turbine with either adding less than 50 MW." (page 1)

8. Acorn Generation Project, Owner's Engineer Project Meeting, July 23, 2003

"2x0 Decision/Strategy – At a minimum RPU needs to have 50 MW by May '05. Power is to setup a meeting with the CEC for August 5, 6, 7 or 8. Steve Badgett, Bob Gill and Joe Carrasco from RPU will participate. Intent of the meeting is to discuss with the CEC RPU's plans, describe the site and interconnections and minimal complications, what process the CEC would apply to a RPU 2x0, explore whether CEC will use RPU's CEQA efforts as a starting point if the project grows." (Page 1)

9. Acorn Generation Project, Owner's Engineer Project Meeting Minutes, August 27, 2003

"GA Revisions – discussed reorientation of the site to accommodate placing the stacks on east (downwind side). Also modified the site plan in anticipation of two simple cycle engines followed by a combined cycle later on." (Page 1)

10. Acorn Generation Project, Owner's Engineer Project Meeting Minutes, September 10, 2003

"1x0/2x0 Decision - We'll have a decision by the end of September" (page 1)

11. Presentation to Riverside City Council, February 3, 2004

"Two 50MW Power Plant (Peaker Units)"

12. City Council Memorandum, February 3, 2004

"Approve the construction of the Riverside Energy Resource Center consisting of two 50 MW units and associated transmission line subject to completion of the California Environmental Quality Act process by the California Energy Commission as the lead agency."

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

In the Matter of:)
Application for Small Power Plant) Docket No. 08-SPPE-1
Exemption for the Riverside Energy) Proof of Service
Resource Center, Units 3 & 4)
_____)

PROOF OF SERVICE

CALIFORNIA ENERGY COMMISSION
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Declaration of Service

I, Allan J Thompson, declare that on May 23, 2008, I effected electronic transmission via electronic mail, consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5 and 1210. All electronic copies were sent to all those listed on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.



s/s Allan J. Thompson
Allan J. Thompson