

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

Application for Certification for the
Mirant Willow Pass Generating Station Project

Docket No. 08-AFC-6

DOCKET

08-AFC-6

DATE May 27 2009

RECD. May 27 2009

**THIRD STATUS REPORT OF
MIRANT WILLOW PASS, LLC**

May 27, 2009

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**THIRD STATUS REPORT OF
MIRANT WILLOW PASS, LLC**

In accordance with the Committee Scheduling Order dated December 31, 2008, Mirant Willow Pass, LLC (“Mirant Willow Pass”) submits its third status report in this proceeding. On June 30, 2008, Mirant Willow Pass submitted an Application for Certification (“AFC”) for the Willow Pass Generating Station (“WPGS”), a 550 megawatt, natural gas-fired electricity generating facility to be located at a site within the existing site of the Pittsburg Power Plant in Pittsburg, California. The AFC was determined to be data adequate on October 8, 2008.

Status of Responses to Data Requests

On April 28, 2009, staff issued its second set of Data Requests (58 through 75). Data Requests 58 through 61 address Biological Resources and ask for additional computer modeling regarding nitrogen deposition resulting from emissions at the WPGS. Data Requests 62 and 63 address Socioeconomics and seek clarification regarding sales and use taxes applicable to the WPGS. Data Requests 64 and 65 address Soil and Water Resources and request a draft Drainage, Erosion and Sediment Control Plan and additional information regarding flood control measures for the WPGS site. Data Requests 66 through 72 address Transmission System Engineering and seek additional data and analyses regarding the results of the Updated System Impact Study (“SIS”) submitted for the WPGS in February 2009, as well as hard copy printouts of information previously provided in electronic format. Finally, Data Requests 73 through 75 address Waste Management and ask for a workplan, soil vapor sampling, a revised Human Health Risk Assessment (“HHRA”), and an Ecological Risk Screening Assessment (“ERSA”).

As of tomorrow, May 28, 2009, Mirant Willow Pass will submit responses to Data Requests 62 through 69 and 71 through 72. On May 18, 2009, Mirant Willow Pass submitted a notice pursuant to Section 1716(f) of the Commission’s regulations to inform staff and the Committee that additional time would be needed to complete responses to Data Requests 58 through 61, 70 and 73 through 75. For Data Requests 58 through 61 (Biological Resources),

Mirant Willow Pass explained that additional time would be needed to complete the modeling related to nitrogen deposition. This work is in progress and should be complete by the middle of June. For Data Request 70 (Transmission System Engineering), which requests specific information regarding a transmission line owned by Pacific Gas and Electric Company (“PG&E”), additional time is needed to obtain the requisite information from PG&E. Mirant Willow Pass’s third party transmission consultant has contacted PG&E to make the request and the work is in process by PG&E. Assuming that PG&E provides the necessary information by the end of May, Mirant Willow Pass also should be able to submit its response to Data Request 70 by the middle of June. For Data Requests 73 through 75 (Waste Management), Mirant Willow Pass explained that additional time is needed to complete the requested sampling and to prepare the revised HHRA and the ERSA. Mirant Willow Pass expects to submit the sampling workplan to staff by the beginning of June. Soil gas sampling as well as data analyses and verification will then be conducted in June and July. The HHRA and ERSA will be finalized and submitted as soon as possible following evaluation of the results.

In addition, since filing its last status report in this proceeding, Mirant Willow Pass has submitted responses to all of staff’s first set of Data Requests (1 through 57), with the following exceptions. Information requested in three Data Requests is not yet available. Data Request 31 (Soil and Water Resources) asked for a Delta Diablo Sanitation District Board approved agreement for recycled water, which remains in progress. Data Request 37 (Transmission System Engineering) requested a transmission analysis that can only be provided by the CAISO and PG&E as part of the interconnection process. Data Request 56 (Air Quality) requested documentation that will be provided in the Bay Area Air Quality Management District’s Preliminary Determination of Compliance for the WPGS. In addition, Data Request 38(e) (Transmission System Engineering) asked for a transmission analysis that is not necessary in light of the results of the results of the SIS. Finally, as noted in previous status reports, Mirant Willow Pass has stated objections to Data Requests 39 (Transmission System Engineering), 43 (Waste Management), and 48 (Visual Resources). Despite its initial objection, and based on communications with the City of Pittsburg, Mirant Willow Pass subsequently submitted a landscaping plan in response to Data Request 48 on May 1, 2009.

Schedule

Staff issued its second set of Data Requests after the deadline for discovery specified in Section 1716(e) of the Commission’s regulations. Staff’s cover letter states that staff does not need the information requested in those Data Requests to prepare the Preliminary Staff Assessment (“PSA”). Mirant Willow Pass therefore understands that issuance of the second set

of Data Requests will not delay Staff's release of the PSA. The PSA previously was due to be released this month, but Staff has stated that it will present a recommendation for a revised schedule in its status report being filed today.

* * * *

Mirant Willow Pass appreciates the opportunity to submit this status report and looks forward to continuing progress toward achieving certification for the WPGS.

May 27, 2009

Respectfully submitted,



Lisa A. Cottle
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DECLARATION OF SERVICE

I, Lisa A. Cottle, declare that on May 27, 2009, I served and filed copies of the attached *Third Status Report of Mirant Willow Pass Generating Station (Docket No. 08-AFC-6)*. The original document filed with the Docket Unit is accompanied by a copy of the most recent Proof of Service list, located at the web page for this project at <http://www.energy.ca.gov/sitingcases/willowpass/index.html>. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

- For service to all other parties: Sent electronically to all email addresses on the Proof of Service list; and by depositing in the United States mail at San Francisco, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked as "email preferred."

AND

- For filing with the Energy Commission: Sent an original paper copy and one electronic copy, mailed and emailed respectively, to the address below:

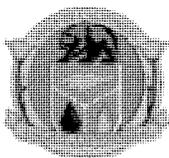
CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-6
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I declare under penalty of perjury that the foregoing is true and correct.



Lisa A. Cottle



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APPLICATION FOR CERTIFICATION
FOR THE **WILLOW PASS**
GENERATING STATION

Docket No. 08-AFC-6

PROOF OF SERVICE
(Revised 4/14/2009)

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