

**D R A F T**

**STATE OF CALIFORNIA**

Energy Resources  
Conservation and Development Commission

<b>In the Matter of:</b>	)	<b>Docket No. 01-AFC-16</b>
	)	
Application for Certification for the	)	DATA ADEQUACY AND
Tracy Peaker Project (TPP)	)	DELEGATION TO COMMITTEE
GWF Energy, LLC.	)	
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**I. INTRODUCTION**

At a regularly scheduled business meeting on October 17, 2001, the Executive Director recommended acceptance of the Application for Certification (AFC) for the Tracy Peaker Project (TPP) on the basis that it meets all the informational requirements of Appendix B of the Commission's site-certification regulations and all but one of the informational requirements of Public Resources Code section 25552 for a four-month application process. (Cal. Code Regs., Title 20, Chapter 5, commencing with § 1701, App. B; Pub. Resources Code § 25552(e).) With respect to the one requirement in section 25552 that the AFC does not meet, the Executive Director recommended a suspension pursuant to Executive Order D-26-01. The Energy Commission considered the recommendations of the Executive Director pursuant to Title 20, California Code of Regulations, section 1709.

## II. DISCUSSION

Public Resources Code section 25552(e) requires an application for a four-month process to demonstrate that the proposed powerplant in three years will either cease to operate or will convert to a cogeneration or combined cycle thermal powerplant. The applicant has signed a ten-year contract to supply power to the California Department of Water Resources, beginning in July 2002, and is proposing the plant remain a simple-cycle project for the duration of the contract. The applicant has requested suspension of the three-year license restriction contained in Public Resources Code, section 25552.

Earlier this year, the Governor issued a series of Executive Orders to accelerate the siting and construction of new powerplants in the state. Pursuant to Executive Order D-26-01, "All restrictions in section 25552 shall be suspended to the extent they would prevent, hinder, or delay the prompt mitigation of the effects of the emergency."

Therefore, the Commission has the discretion to suspend the requirement that this project either cease operation or convert to a cogeneration facility or a combined-cycle powerplant within three years.

The Department of Water Resources has developed contracts with suppliers that are designed to allow and encourage simple cycle powerplants, such as the proposed project, to be financed for development in time to meet the anticipated summer of 2002 peak load. Some of these contracts provide for the sale of power for periods longer than three years in order to make the projects economically viable as peaking projects. Peaking projects, moreover, serve a continuous need in the State for capacity to serve peak demand.

It appears that the three-year rule would prevent, hinder, or delay the prompt mitigation of the effects of the emergency declared by the Governor in that projects that would be able to be on line for the summer of 2002 might not even apply for licensing if required to cease operation in three years or convert to a cogeneration or combined cycle powerplant.

After allowing for public comment on the matter, the Commission voted unanimously to accept the Executive Director's recommendations and, thereby, accepts the AFC as complete to begin the four-month application process. Pursuant to Public Resources Code Section 25552, within 25 days after acceptance of an AFC for a simple-cycle powerplant, such as this application, the Commission must determine if the application qualifies for an expedited final decision within four months after acceptance.

### III. CONCLUSIONS AND ORDER

On the basis of the foregoing, the Commission ORDERS AS FOLLOWS:

1. The AFC for the Project is hereby accepted as complete as of October 17, 2001.
2. The committee assigned to oversee the AFC proceeding shall determine within 25 days whether the AFC qualifies for an expedited decision pursuant to Public Resources Code section 25552.

Dated: \_\_\_\_\_

ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

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WILLIAM J. KEESE  
Chairman

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ROBERT PERNELL  
Commissioner

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MICHAL C. MOORE  
Commissioner

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ROBERT A. LAURIE  
Commissioner

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ARTHUR H. ROSENFELD  
Commissioner