

COMMITTEE CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for) Docket No.
the Almond 2 Power Plant Project) 09-AFC-2

)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 22, 2010

1:00 p.m.

Reported by:
Peter Petty
Contract No. 170-09-002

COMMITTEE MEMBERS PRESENT

Anthony Eggert, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Kourtney Vaccaro, Hearing Officer

Galen Lemei, Advisor to Commissioner Douglas

Lorraine White, Advisor to Commissioner Eggert

STAFF AND CONSULTANTS PRESENT

Robin Mayer, Staff Counsel

Felicia Miller, Project Manager

PUBLIC ADVISER'S OFFICE

Jennifer Jennings, Public Adviser

APPLICANT

Jeffery D. Harris, Esq.
Brian Biering, Esq.
Ellison Schneider & Harris

Brian LaFollette, PE
George Davies
Greg Tucker (via teleconference)
Turlock Irrigation District

Susan Strachan
Strachan Consulting

Sarah Madams
Stephanie Moore
CH2MHILL

Nancy Matthews (via teleconference)
Sierra Research

I N D E X

	<u>Page</u>
Proceedings	1
Opening Comments	1
Introductions	
Committee	1
Staff	1
Applicant	2
Purpose of the Committee Conference	3
Discussion	4
Opportunity for Public Comment	14
Closing Comments	15
Adjournment	16
Reporter's Certificate	17
Transcriber's Certificate	17

1 MR. HARRIS: Good morning, or afternoon I guess.
2 Jeff Harris on behalf of the applicant. To my right is
3 Susan Strachan the environmental project something-or-other
4 from Strachan Consulting. Brian LaFollette is the AGM for
5 Power Services Administration, I believe is the correct
6 title. Also in the audience is George Davies from Turlock
7 Irrigation District, combustion turbines, Brian Biering from
8 my office, Stephanie Moore from CH2MHILL and Sarah Madams
9 from CH2MHILL. On the phone, Greg Tucker from the District
10 and I believe Nancy Matthews from Sierra Research, who is
11 our air quality expert.

12 ASSOCIATE MEMBER EGGERT: Okay. Do we have
13 anybody here from the California Unions for Reliable Energy,
14 CURE, either here or on the phone?

15 (No response.)

16 ASSOCIATE MEMBER EGGERT: No. Any other
17 representatives of state agencies, California state
18 agencies, federal agencies?

19 (No response.)

20 ASSOCIATE MEMBER EGGERT: Okay. I think at this
21 point then I'd like to turn it over to Hearing Officer
22 Vaccaro to explain the purpose of today's hearing and begin
23 the process.

24 HEARING OFFICER VACCARO: Okay, well here we are
25 again. I think we did exactly what we said we were going to

1 do, which is move this process along thoroughly yet
2 expeditiously so that the purpose of today's proceeding is
3 to hear any comments that the parties or members of the
4 public might have on the Presiding Member's Proposed
5 Decision.

6 As you are aware that's a document that is put out
7 for a 30-day comment period. We are still within that 30-
8 day comment period but this proceeding today gives the
9 Committee and the parties an early opportunity to learn of
10 any comments and concerns and to be able to adequately
11 address them at the close of the 30-day comment period. The
12 goal, of course, being to present this Presiding Member's
13 Proposed Decision and any corresponding errata to the full
14 Commission at its December 15th Business Meeting.

15 We did something a little bit different in the
16 Notice of Availability. We asked the parties in particular
17 to submit initial comments by a date certain and gave you
18 all the opportunity to submit supplemental or responsive
19 comments by the close of the 30-day period.

20 You gave us timely responses. We went ahead --
21 the Committee has read all of the comments. So I think
22 that's important for me to state to begin today's
23 proceedings because what we'd like you to do is don't tell
24 us what you've already told us because we read it. The
25 Committee and I we read it, we understand it, it's all very

1 straightforward. So really the purpose, I think in part
2 today, is to find out what else you need to tell us.

3 The Committee does have one issue of clarification
4 and the Committee will save that and through me we'll go
5 ahead and get that out on the record and discuss it. But
6 right now what we'd like to do is hear from the applicant
7 and the staff what's your response to each other's comments
8 and whether there's anything else that you need to
9 supplement. Once again reiterating we've read it so you
10 don't need to tell us what you've already told us.

11 I think we'll go ahead and start with the
12 applicant. If you could, one, give us your feedback to
13 staff's comments. If you have any concerns at all or if
14 you're accepting of those comments and then anything in
15 addition that you might wish to add.

16 MR. HARRIS: Okay, thank you. Appreciate the
17 clear direction there and I'll try to stay on script here.

18 We've reviewed the staff's comments. We find them
19 to be generally very helpful. I have been clarifying,
20 picking up little things here and there and adding some
21 clarification. We don't have any major issues with what
22 staff has proposed in their comments.

23 Having said that there are a couple of things I
24 want to say, just mostly to prove that I read them but also
25 since we have an audience with the Commissioners.

1 The initial concern was with the idea of changing
2 condition language. There was some concern on my part that
3 changing condition language might trigger a Revised PMPD,
4 which would trigger an additional 15 day period and push us
5 past the 12/15 date for approval.

6 But thankfully I went back, reviewed some of the
7 Erratas, including the Erratas on these large solar
8 projects, and they are extensive and have extensive
9 revisions to Commission conditions. So I've allayed my own
10 fears there. So that was kind of my initial reaction to the
11 changes in condition. I think we're fine with that as a
12 concept.

13 And the reason I bring that up is, again, the
14 schedule has been so important to us. I want to take the
15 opportunity to thank you for how quickly you turned around
16 this decision. You've done exactly what you said you would
17 do and in a fantastic manner. This is one of the most
18 readable PMPDs I've had the pleasure to read in a long time.

19 It's a really good piece of work.

20 I feel a little ungrateful for commenting at all.

21 Pointing out minor things. But most of our comments and
22 most of staff's comments are typos and cut-and-paste-type
23 errors. So let me say that for the record as well, it's
24 very important. Mr. LaFollette drove all the way up from
25 Turlock today mostly to say thank you for the schedule, more

1 than anything else. We appreciate the quick turnaround.

2 Having allayed the fears about conditions
3 triggering a revised and affecting the schedule, the one I
4 guess substantive comment I had was one of staff's comments
5 where they suggested moving language from the verification
6 into the condition language. And that was on page nine of
7 the staff's comments. It's a revision to BIO-12 and the
8 change is minor. It says, you know, a map shall be prepared
9 for sightings of GGS and WPT, Giant Garter Snakes and
10 Western Pond Turtle. And the suggestion was to move that
11 from the verification to the condition.

12 And just as a general matter and mostly for the
13 Commissioner. One of the things applicants have concerns
14 about is all of the language being put into the conditions
15 because what that then triggers is a greater likelihood of
16 post-certification amendments.

17 From an applicant's point of view, the
18 implementing language should be in the verification. The
19 advantage of having that implementing language in the
20 verification is that if we get moving down the road and
21 something changes, the staff has the discretion without
22 having to come back to the full Commission to make changes
23 to verification language. Again, we're not talking about
24 putting substantive provisions into the condition language,
25 we're talking about implementing language.

1 I'd say that we object to that staff change as too
2 strong. I think it's very minor in this case but I did want
3 to take the opportunity to put into both of your heads the
4 idea that, you know, one way for the Commission to be able
5 to manage its workload is to definitely, you know, look for
6 the verification to be the implementing language. That was
7 the only one that I, you know, wanted to call to your
8 attention. The rest of them I think are pretty minor and we
9 wouldn't have any comments on the rest of those. So that's
10 the extent of our comments on the staff's comments. I guess
11 that's our rebuttal.

12 In terms of what's important to us. Again, you've
13 already heard me talk about the schedule. Again, thank you
14 for that, that's the most important thing.

15 The one, I guess, development since we last met
16 was that the Hughson Grayson Project was approved by the
17 Board on November 2nd. That project involved two potential
18 locations for the substation that this project, the Almond 2
19 Project will interconnect to. That's called the Grayson
20 substation.

21 That project was originally scheduled to be
22 licensed -- no, excuse me, certified by the District in
23 November of last year. And as you've seen through our
24 documents the Board said in November of last year, go back
25 and look at some more alternative locations, look at some

1 alternative routes. They did that. The only real
2 connection between that and this project is the location of
3 the substation, the Grayson substation.

4 In the EIR that was recently approved by the
5 District there were alternative locations. The Grayson
6 Substation South, which is the one that was described in the
7 AFC, and then the Grayson Substation North. The Grayson
8 Substation North was an alternative location basically right
9 across the canal from the existing Almond Project site. If
10 you can picture at all the project layout there's the
11 existing Almond Project site, there's TID's lateral 2 just
12 to the south of that.

13 The Grayson Substation North, which was approved
14 by the Board, is literally right over the canal. So what
15 that did is it made the interconnection shorter; essentially
16 what's shown as Segment F in the various interconnections.
17 We're going to go straight down the Circuit 2 route,
18 crossing over the canal. And then instead of going to the
19 west and back around it essentially will go directly to the
20 substation right there, an additional 30 feet. So our
21 interconnection became much shorter.

22 It's also a single pole interconnection now. One
23 of the NERC/WECC reliability criteria was with the longer
24 interconnection to the substation south you had to separate
25 the two circuits after five poles. By approving the

1 northern substation both those circuits can stay on one set
2 of poles. As soon as they cross that canal they're going to
3 go right into the substation.

4 So a long explanation for telling you that the
5 interconnection became a single pole and very short, which
6 we think is a very good improvement. It makes the District
7 I think a little more responsive to some of the feedback it
8 got on the transmission project. I think it simplifies our
9 project.

10 Implementing that or working that into your PMPD
11 Errata, we're willing to work with you on that. Definitely
12 from describing it generally to going through line by line
13 through the Decision and saying where changes will be made.

14 We'd like to hear from you as to how you'd like that
15 incorporated.

16 That's really the only significant issue. We had
17 some comments on greenhouse gas but they're self-explanatory
18 and you've seen those. Everything else is pretty much
19 editorial. So I'm going to stop the monologue at this point
20 and make myself available for questions or finish as you
21 prefer.

22 ASSOCIATE MEMBER EGGERT: Maybe just a quick
23 comment. This is Anthony. I really appreciate your earlier
24 comments, especially as it relates to schedule. We don't
25 often receive compliments on schedule so it's nice to hear

1 them when we do.

2 And also appreciate the comments on the
3 distinction between the verification and the compliance.
4 And I guess maybe one question while we're on the topic.
5 What was the purpose for the recommendation to move that in
6 terms of just as a general?

7 MS. MAYER: The purpose is that we were at
8 demanding or having shall language that referred to a
9 specific product rather than verifying that product
10 existing, but it is a minor, a minor point. I think it's
11 more important that it be a map instead of a figure because
12 a figure is kind of vague. Staff had a second bite at the
13 apple to kind of fix that and so we did.

14 ASSOCIATE MEMBER EGGERT: Okay. And then I'll
15 defer to some degree to Ms. Vaccaro on this but in terms of
16 as I understand, the different transmission options were
17 evaluated in the -- in the PMPD, correct? Were evaluated or
18 described?

19 HEARING OFFICER VACCARO: Yes, and that's part of
20 what I wanted to follow up on as well. I think if we can
21 direct some of our questions specifically to Mr. Harris I
22 think maybe it will allay some of our concerns that we both
23 have to ensure that -- the PMPD was intended to cover the
24 worst-case scenario and there are two corridors that are
25 analyzed in the PMPD and that are discussed.

1 I think what might help, and of course we read
2 your comment and we understand what it says and you gave us
3 a very brief narrative just now. But if you could tie
4 together a little bit more the analysis that's already been
5 done in the PMPD with this change from two corridors to one.

6 One that's already been analyzed and now it's shorter, or
7 is there more to tell us?

8 Because our concern, and this is what I was
9 alluding to in the beginning is, what you're telling us is
10 extra-record information. That if in fact what we're
11 already done is considered the worst-case scenario and it is
12 within the evidentiary record and within the PMPD, then we
13 can certainly make mention of this change. Not by going
14 back and rewriting the PMPD because it is extra-record,
15 ensuring perhaps that the Introduction properly captures the
16 chronology after the record was closed and after the
17 evidentiary hearing was completed.

18 But I think what's important for us is to
19 understand how what's been done ties into what it is that
20 you just told us and what you told us in your comments. And
21 we do understand that staff is concurring with your
22 recommendation, but at the end of the day the Committee
23 needs to be clear that the PMPD that's been prepared is
24 worst-case scenario that in some fashion has considered and
25 contemplated exactly what it is that we're discussing right

1 now.

2 MR. HARRIS: Thank you for the opportunity to add
3 to those comments. The one thing I forgot to mention was
4 there is an exhibit in the record, and it's Exhibit 46, that
5 was prepared at the Hearing Officer's request and that was a
6 description of exactly what was going on with the Hughson
7 Grayson. It's actually in the record. The approval, I
8 agree, is post, is extra-record but the actual description
9 of this shorter line along the same routes is in Exhibit 46.
10 There's a map attached to Exhibit 46 that shows exactly
11 where that location would be for that substation.

12 As I mentioned briefly, the additional 30 feet.
13 Essentially -- maybe this will help. The way that the
14 corridor was going to go with the longer corridor was that
15 we crossed the canal and then take a 90 degree turn headed
16 west down to Crows Landing and down Crows Landing. Instead
17 of taking that 90 degree turn at the south of the canal it
18 will literally continue an additional 30 feet into the
19 substation location.

20 The good thing about your regulations is that you
21 require that our transmission lines that we look at, I
22 believe it's 1,000 or 500 feet or 200 feet depending on the
23 discipline, on each side of that corridor. So the area for
24 this additional 30 feet into the substation was included in
25 the biological surveys for the project, it was included in

1 the cultural resource surveys for the project, it was
2 included in all those various disciplines as a subset of the
3 information. And so even the additional 30 feet here is in
4 an area that has been studied and found to have no
5 significant impact on any biological, cultural or other
6 resource.

7 So I think, again, 46 is the key. Thank you for
8 giving us homework when we had a status conference because I
9 think that homework is really what ties the record together
10 very well here. I agree that we don't need to rewrite the
11 entire decision to deal with this issue because it's in the
12 record. But again, we're willing to help you in whatever
13 ways you would like us to help you to get that clarified.
14 Ultimately what we want to be able to do is build that
15 shorter line on the routes that have been analyzed.

16 HEARING OFFICER VACCARO: Thank you. And I think
17 with that I would just like to hear from staff just to
18 ensure that what you've heard is something either that you
19 agree with or that there are some concerns raised or if
20 there's anything else you believe the Committee needs to
21 know as it considers the comments on this very specific
22 issue of the post-evidentiary hearing certification by TID
23 of the EIR and approval of their project.

24 MS. MAYER: Staff is confident that an
25 environmental review was conducted on the final scenario

1 within the assessments and the decision.

2 HEARING OFFICER VACCARO: Okay, thank you.

3 So, Mr. Harris, was there anything else that you
4 needed to add from the applicant's perspective, either in
5 response to staff's comments or anything else that you
6 thought the Committee needs to know?

7 MR. HARRIS: No, I think you've seen our written
8 comments and appreciate the opportunity to elaborate today
9 but I think we've said what we needed to say.

10 I just hadn't thanked the staff yet for their hard
11 work as well turning things around. And again, their
12 comments are very positive from our perspective.

13 HEARING OFFICER VACCARO: Thank you. So,
14 Ms. Mayer.

15 MS. MAYER: Well thank you. The staff has no
16 objection to the applicant's edits and finds them helpful
17 and we have no further comments from what you have already
18 read.

19 HEARING OFFICER VACCARO: Okay. I think -- are
20 there any questions or comments from up on the dais for
21 either party?

22 Okay. I think with that -- I'm looking out into
23 the audience and I don't see any members of the public here.

24 Ms. Jennings, have you heard any indications or are you a
25 conduit for anyone?

1 PUBLIC ADVISER JENNINGS: No.

2 HEARING OFFICER VACCARO: Okay. I notice that
3 there are some callers on the line, many of whom have
4 already been identified. But is there any member of the
5 public or anyone else, whether representing local, state or
6 federal government, who might be on the line who would wish
7 to make a comment at this time?

8 I hear silence so I'm assuming then that there is
9 no public comment from anyone on the telephone.

10 I think since we're giving out the thanks and the
11 praise, I think on behalf of the Committee I would like to
12 thank all of you for helping to make this process, I think a
13 little smoother. It seems there's quite a bit of
14 collaboration between the parties working things out in
15 advance. I think which made a huge difference in being able
16 to move this along swiftly.

17 We will collectively put our heads together and
18 vet the comments more thoroughly. We still need to get
19 through the entire comment period. But again, the comments
20 were straightforward. The things that you've said so far
21 certainly are worth putting in an Errata. So the
22 expectation will be that on December 15 I believe the
23 Committee is likely to submit a PMPD and an Errata for
24 consideration of the full Commission. Anything else?

25 ASSOCIATE MEMBER EGGERT: No, I think you've

1 covered it all. The dates that you've provided are
2 consistent with what I have. The 30 day comment period ends
3 on the 6th and I think that provides us adequate time to
4 develop the Errata for the 15th Business Meeting.

5 I also want to echo your thanks of all of the
6 parties and the staff.

7 And also your comment about this being well-
8 written. I think Hearing Officer Vaccaro definitely
9 deserves a lot of credit for that. I think she's run this
10 hearing very efficiently and effectively.

11 And I also want to thank our staff as well for
12 their contribution.

13 I think with that I believe we are concluding this
14 PMPD hearing and we adjourn and we'll go off the record.
15 Thank you very much.

16 (Whereupon, at 1:28 p.m. the
17 Committee Conference was adjourned.)
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said conference, nor in any way interested in outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of November, 2010.

PETER PETTY, CER**D-493

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

RAMONA COTA, CERT**478

November 24, 2010