

EVIDENTIARY HEARING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
 )  
Petition to Modify the )  
Application for Certification ) Docket No.  
of the Blythe Energy Power ) 99-AFC-8C  
Plant Project )  
(Blythe Energy, LLC) )  
\_\_\_\_\_ )

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

FRIDAY, SEPTEMBER 22, 2006

4:22 P.M.

Reported by:  
Peter Petty  
Contract No. 170-04-001

COMMITTEE MEMBERS

John L. Geesman, Presiding Member

HEARING OFFICER AND ADVISORS

Edward Bouillon, Jr., Hearing Officer

STAFF and CONSULTANTS

Jack Caswell, Project Manager

Paul Kramer, Staff Counsel

APPLICANT

Scott A. Galati, Attorney  
Ray Rouse, Attorney  
Galati and Blek, LLP

Gary L. Palo, Project Manager (via  
teleconference)  
Blythe Energy

Kenneth Stein (via teleconference)  
Florida Power and Light Energy

INTERVENORS

Jedediah Gibson, Attorney  
Ellison, Schneider and Harris, LLP  
Caithness Blythe

Bob Mooney, Attorney (via teleconference)  
Caithness Blythe

ALSO PRESENT

John Kalish (via teleconference)  
Bureau of Land Management

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## 1 P R O C E E D I N G S

2 4:22 p.m.

3 PRESIDING MEMBER GEESMAN: This is the  
4 evidentiary hearing on the petition to modify the  
5 application for certification Blythe Energy Power  
6 Plant project, also known as the Blythe Energy  
7 Project Transmission Line Modification.

8 I'm John Geesman, the Presiding Member  
9 of the Committee assigned to this matter. To my  
10 left is Ed Bouillon, the Hearing Officer assigned  
11 to the matter. I'm going to turn it over to Ed  
12 for conduct of this hearing.

13 HEARING OFFICER BOUILLON: Thank you,  
14 Commissioner. This meeting is being held pursuant  
15 to a notice dated September 11, 2006. I'd like to  
16 note that the other Member of this Committee is  
17 James D. Boyd, the Associate Member, who is unable  
18 to be here because of present --

19 MR. MOONEY: You're breaking up -- to  
20 get closer to the microphone?

21 PRESIDING MEMBER GEESMAN: Are your  
22 microphones on?

23 HEARING OFFICER BOUILLON: Yes, mine is.  
24 What is -- I'm sorry, let me repeat myself.

25 This hearing is being conducted pursuant

1 to a notice dated September 11, 2006. I'd like to  
2 note that the other Associate Member of this  
3 Committee is James D. Boyd, who is unable to  
4 attend because of a prior commitment.

5 I'd like to recognize the parties that  
6 are in attendance, Blythe Energy, the applicant,  
7 represented today by Scott Galati. I understand  
8 he has someone with him. Would you please  
9 introduce him, Mr. Galati?

10 MR. GALATI: Yes, also representing  
11 Blythe Energy would be Ray Rouse.

12 HEARING OFFICER BOUILLON: Thank you.  
13 And the staff is present, represented by Paul  
14 Kramer, Staff Counsel. With him is Jack Caswell,  
15 the Project Manager.

16 I also notice that for the intervenors  
17 Caithness Blythe II is represented today by  
18 attorney Jed Gibson.

19 MR. MOONEY: And Bob Money is on, as  
20 well.

21 HEARING OFFICER BOUILLON: And  
22 participation in this hearing may also be made  
23 through a telephone conference call that has been  
24 arranged for today's hearing. And I would request  
25 now that the parties on the line identify

1 themselves for the record.

2 MR. PALO: Gary Palo, Project Manager,  
3 Blythe Energy.

4 MR. KALISH: John Kalish, Associate  
5 Field Manager, BLM, Palm Springs.

6 MR. MOONEY: Bob Mooney, Caithness.

7 HEARING OFFICER BOUILLON: Is there  
8 anyone else?

9 MR. STEIN: Kenneth Stein, Environmental  
10 Manager, FPL Energy.

11 HEARING OFFICER BOUILLON: Is there  
12 anyone else? Hearing no response, we'll continue.

13 No other intervenor has indicated an  
14 intention to participate today. The other  
15 possible participants are the Western Area Power  
16 Administration and the Bureau of Land Management.  
17 They, being governmental entities, will be allowed  
18 to participate as appropriate.

19 This evidentiary hearing is conducted by  
20 the Committee as part of the Commission's decision  
21 in an amendment proceeding on the Blythe Energy  
22 project.

23 This is a public forum and we will  
24 receive evidence, hear comments and discuss any  
25 remaining schedule and procedures necessary to

1 conclude this amendment process.

2 After the evidentiary hearing the  
3 Commissioner conducting this proceeding, Mr.  
4 Geesman, will issue a proposed decision which will  
5 circulate for a period of 30 days. It will then  
6 be scheduled for adoption on the Commission's  
7 business calendar.

8 This decision will conform to both  
9 requirements of the California Environmental  
10 Quality Act, CEQA, and the National Environmental  
11 Policy Act, NEPA. The documents pertinent to  
12 today's hearing include the notice of evidentiary  
13 hearing I mentioned earlier; the Commission  
14 Staff's evidentiary hearing statement docketed on  
15 September the 19th; and evidence to be offered by  
16 the parties.

17 All persons, staff, applicant and  
18 intervenors, will present their evidence regarding  
19 the substantive topic areas. The parties will  
20 also identify proposed stipulations. We  
21 understand that all evidence is to be introduced  
22 by stipulation.

23 During the course of the hearing we will  
24 proceed as follows: We will hear the stipulations  
25 offered by the party and receive the evidence that

1 is the subject of those stipulations.

2 Upon completion of those proceedings  
3 interested agencies and members of the public may  
4 ask questions and make applicable statements or  
5 comments.

6 And following that we will turn to a  
7 discussion of anything that remains to be  
8 discussed.

9 Before we begin, however, I would like  
10 to mark for identification exhibit 34, the Blythe  
11 Energy, LLC's testimony for this proceeding, which  
12 incorporates several exhibits 1 through 33, but  
13 have not been separately marked.

14 At this time, Mr. Kramer, do you have a  
15 stipulation to offer.

16 MR. KRAMER: I would stipulate to the  
17 entry of Blythe Energy's exhibits 1 through 34,  
18 and ask for a stipulation from Blythe and  
19 Caithness to the entry of staff's sole exhibit  
20 number 100, the revised staff assessment, draft  
21 environmental assessment.

22 HEARING OFFICER BOUILLON: Mr. Galati,  
23 do you agree to that stipulation?

24 MR. GALATI: Yes, I do.

25 HEARING OFFICER BOUILLON: Mr. Gibson,

1 do you agree?

2 MR. GIBSON: Yes, I do.

3 HEARING OFFICER BOUILLON: Is there  
4 anyone on the line who objects to that  
5 stipulation?

6 Those exhibits will be accepted into  
7 evidence.

8 Is there any further testimony that  
9 needs to be offered? Mr. Galati?

10 MR. GALATI: None on behalf of the  
11 applicant.

12 HEARING OFFICER BOUILLON: Mr. Kramer?

13 MR. KRAMER: None on behalf of staff.

14 HEARING OFFICER BOUILLON: Mr. Gibson?

15 MR. GIBSON: None on behalf of  
16 Caithness.

17 HEARING OFFICER BOUILLON: Is there any  
18 further proceedings that need to be discussed at  
19 this hearing?

20 MR. KRAMER: Yes, I believe Mr. Gibson  
21 wanted to make a brief statement on behalf of  
22 Caithness. And then Mr. Galati and I, at least, I  
23 think want to talk to a little bit about the  
24 future scheduling issues.

25 HEARING OFFICER BOUILLON: All right.

1 Let's ask Mr. Gibson to speak first.

2 MR. GIBSON: On behalf of Caithness, we  
3 would like to take this opportunity to express our  
4 support for the revisions made in the revised  
5 staff assessment. And we support the project as  
6 revised and would like to see it go forward.

7 We'd also like to thank the Commission,  
8 the staff and the other parties for working with  
9 us to resolve the issues that we raised in our  
10 intervention and at the prehearing conference.

11 Thank you.

12 PRESIDING MEMBER GEESMAN: Have you had  
13 a chance to review the form of decision which the  
14 staff has attached to their hearing statement?

15 MR. GIBSON: The revised staff  
16 assessment?

17 PRESIDING MEMBER GEESMAN: Yes.

18 MR. GIBSON: Yes.

19 PRESIDING MEMBER GEESMAN: And that's  
20 acceptable to you?

21 MR. GIBSON: Yes, we support that.

22 MR. KRAMER: I'm not sure he -- he was  
23 talking about the proposed order that we filed  
24 earlier this week.

25 MR. GIBSON: I believe --

1                   PRESIDING MEMBER GEESMAN:  If you  
2   haven't had a chance to look at it, that's fine,  
3   as --

4                   MR. GIBSON:  I'd have to look at it.  
5   I'm not sure if I have or not.

6                   PRESIDING MEMBER GEESMAN:  I just want  
7   to make certain everybody's on the same page  
8   before we leave today.

9                   MR. KRAMER:  Flip to the third page.

10                   (Pause.)

11                   MR. GIBSON:  Yes, we support this.

12                   PRESIDING MEMBER GEESMAN:  Thank you.

13                   HEARING OFFICER BOUILLON:  Mr. Kramer,  
14   you have something else?

15                   MR. KRAMER:  As far as scheduling goes,  
16   I know we suggested in our hearing statement that  
17   there be a 30-day delay between the issuance of  
18   the Presiding Member's Proposed Decision and the  
19   Commission business meeting at which it's heard.

20                   That was based not on our own needs, but  
21   on what we were told were the needs of the federal  
22   agencies.  We've since heard from them that they  
23   do not need that time.  BLM is going to work  
24   basically on what they have in front of them  
25   today, as I understand it.

1                   And the Western Area Power  
2 Administration is thinking about doing, basically  
3 taking the Presiding Member's Proposed Decision  
4 and circulating that for comment to meet their  
5 needs. They'd be even happier if they had a final  
6 Commission decision to do that, so that it may be  
7 to speed the process along, going to the  
8 Commission as quickly as you can would be even  
9 better.

10                   PRESIDING MEMBER GEESMAN: I'm not  
11 certain how quickly we can do that. The  
12 difficulty that I'm aware of is I think they are  
13 having a hard time getting a quorum for one of the  
14 October meetings. I am not likely to be at  
15 another -- I'll be at the special meeting on, I  
16 think, October 2nd, for the San Francisco case. I  
17 doubt that we have time to get this on that  
18 agenda.

19                   MR. KRAMER: No, I mean there's the  
20 regular agenda noticing requirement.

21                   PRESIDING MEMBER GEESMAN: Yeah. The  
22 next business meeting after October 2nd that I  
23 will be at is the November 8th. And I can inquire  
24 of the Chair if she's interested in scheduling a  
25 special meeting when I can be here. Does the

1 applicant have a preference?

2 MR. GALATI: I don't believe that we  
3 would ask you to schedule a special meeting for  
4 the purposes of that. What our concern was is  
5 that we were just trying to make it easier for the  
6 federal agencies, since --

7 PRESIDING MEMBER GEESMAN: Yeah.

8 MR. GALATI: -- there was no need to  
9 circulate this document for 30 days, since the  
10 staff assessment basically has been circulated for  
11 more than 30 days.

12 PRESIDING MEMBER GEESMAN: I think  
13 that's entirely appropriate. So, you know, we can  
14 simply put it on the next scheduled Commission  
15 business meeting. I simply am not able today to  
16 say when that is.

17 MR. KRAMER: Well, the best you can do  
18 is the best you can do, and we appreciate that.

19 MR. GALATI: And we do support that.  
20 And then that way the federal agencies can decide.  
21 There isn't anything proposed to circulate; there  
22 is something that is final to circulate, to the  
23 extent that they need to. We think that will meet  
24 our schedule.

25 PRESIDING MEMBER GEESMAN: Okay.

1 MR. GALATI: Appreciate that.

2 PRESIDING MEMBER GEESMAN: Well, I will  
3 speak to the Chair then and we'll plan on putting  
4 it on the October 11th, I believe that's our next  
5 scheduled --

6 MR. CASWELL: That is the next scheduled  
7 business meeting.

8 MR. GALATI: That would be great.

9 PRESIDING MEMBER GEESMAN: I should ask,  
10 because I know both Mr. Bouillon and I are going  
11 to be out of the country. Mr. Kramer, can you or  
12 Mr. Caswell handle the noticing arrangements to  
13 get that on the October 11th business meeting?

14 MR. CASWELL: We could do that.

15 PRESIDING MEMBER GEESMAN: Okay.

16 MR. GALATI: And lastly, because I  
17 believe that either Mr. Palo is boarding his  
18 flight, or in a place that's too loud for him to  
19 say this, we want to thank staff very much for  
20 processing this application as quickly as they  
21 could, including the most recent changes, which we  
22 think, quite frankly, Jack Caswell, Paul and their  
23 staff did some yeoman's work there in being able  
24 to pull it together in such a complete document  
25 that allows us to do what we need to do.

1                   And also like to thank Commissioner  
2                   Geesman and Hearing Officer Bouillon for  
3                   scheduling this. I know that they both are trying  
4                   to leave, and we appreciate the interest in the  
5                   case. Thank you very much.

6                   PRESIDING MEMBER GEESMAN: Do we have  
7                   anything else?

8                   MR. KRAMER: No.

9                   MR. CASWELL: John Kalish, is there  
10                  anything you'd like to -- John Kalish of BLM and  
11                  co-author of federal author of this revised staff  
12                  assessment, environmental assessment, is on the  
13                  line. So, John, is there anything you'd like to  
14                  comment on?

15                  MR. KALISH: No, I don't think I have  
16                  anything to add.

17                  PRESIDING MEMBER GEESMAN: You're  
18                  comfortable, Mr. Kalish, with us approving one of  
19                  two substations, the choice of which to be at the  
20                  discretion of the applicant?

21                  We enumerate where the substations are.

22                  MR. KALISH: Yeah, what we would do  
23                  within our decision record is approve one of the  
24                  substations.

25                  PRESIDING MEMBER GEESMAN: That's fine

1 by us.

2 MR. KALISH: -- difficulty in leaving  
3 that option open.

4 PRESIDING MEMBER GEESMAN: No, I  
5 understand that. But we're acting first, so we  
6 wanted to leave it open while we had it in front  
7 of us.

8 MR. KALISH: Um-hum.

9 PRESIDING MEMBER GEESMAN: And you're  
10 comfortable with that approach?

11 MR. KALISH: I think we can respond to  
12 that, sure.

13 PRESIDING MEMBER GEESMAN: Good. Do we  
14 have anything else?

15 MR. KRAMER: Did you ask for public  
16 comment from the phone?

17 PRESIDING MEMBER GEESMAN: Not yet but  
18 we're about to.

19 MR. KRAMER: I'm not sure there is any.

20 PRESIDING MEMBER GEESMAN: Is there any  
21 public comment, either in the audience or on the  
22 telephone? I don't hear any.

23 The hearing will be adjourned. Thank  
24 you very much.

25 (Whereupon, at 4:35 p.m., the hearing  
26 was adjourned.)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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 Hearing; 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 hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of September, 2006.

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