TIERRA ENERGY

DOCKET
06-AFC-6
DATE APR 2 8 2008
RECD. APR 2 8 2008

Greg Trewitt
VP, Development and Engineering
Tierra Energy, LLC

April 28, 2008

Presiding Member
Jeffrey Byron
California Energy Commission
1516 Ninth Street MS 32
Sacramento, CA 95814

Re: Eastshore Energy Center (Docket No. 06-AFC-6): Project Delays

Dear Commissioner Byron:

We were extremely disappointed to receive your Committee's notification of an approximately 5 week further delay in issuing the Presiding Member's Proposed Decision (PMPD) for the Eastshore Energy Center ("Eastshore" or the "Project"). As the owner and developer of Eastshore, this additional delay is very troubling. The revised PMPD schedule is yet another in a series of unexplained schedule delays to the protracted review process. These habitual delays have moved beyond excessive and have become punitive to our Project. Furthermore, the delays are well beyond the statutory 12-month permitting process.

Eastshore reminds the Committee that the California Energy Commission ("Commission") found the Application for Certification ("AFC") for Eastshore data adequate on November 8, 2006. Based on the Committee's new schedule, we are fearful that Eastshore may not receive a final decision on its AFC until late July or early August 2008, nearly 2 years after the Commission confirmed data adequacy. The continued delays are not the result of any changes to the Project since the proposed Project has not changed during permitting. Nor are the delays the result of late filed data responses because Eastshore only filed a single data response late–by just 1 day.

Generally, an applicant can expect a PMPD in 6 to 8 weeks (or 43 to 56 days) after the evidentiary hearings. In this instance, it will be five months between the last evidentiary hearing and the PMPD. Worth noting is that the time required to produce this PMPD greatly exceeds the time taken by the Committee for the Metcalf Energy Center, a project that required a local government override with significant, organized opposition. The time between the last Eastshore evidentiary hearing in January to the now proposed date for the PMPD is approximately 150 days, nearly triple the norm. By comparison, the

Metcalf Committee issued the PMPD approximately 55 days after the final briefs. The time between the last Eastshore brief and the proposed PMPD is approximately 95 days.

Eastshore has repeatedly expressed to the Committee its schedule concerns in status reports and comments throughout the process prior to this point. Unfortunately, these delays have beset the Project from the very beginning, and we began expressing these concerns in earnest in June 2007. Obviously there has been no improvement to the schedule. Examples include but are not limited to:

- The Commission Staff did not raise their primary concern with the Project regarding aviation safety until 4 months into the proceeding even though they had similar concerns on the Blythe and Russell City projects and ample opportunity to issue discovery requests to address their concerns.
- The Preliminary Staff Assessment ("PSA") was published more than 10 months after the Commission found the AFC data adequate. Typically, we would expect the PSA in 6 months or less.
- The Final Staff Assessment ("FSA") was not filed until approximately three months after the PSA. Typically, we would expect the FSA in 2 months or less.
- Despite concerns expressed by Eastshore that two days of hearings would be insufficient for the proceeding, only two days of hearings were scheduled. As predicted, two hearing days were insufficient and a third hearing date became necessary. Then, the earliest hearing date available was in mid-January causing an additional month delay for a 3 day hearing.
- As noted earlier in the letter, the PMPD is now not expected until 150 days after the hearings with no explanation for the delays.

The delays suffered by Eastshore in this proceeding are unprecedented and unconscionable. If there is any doubt as to the urgency of this schedule, we wish to be clear—time is of the essence. We urge the Committee and Commission take every available action to expedite and complete its review of Eastshore.

Very truly yours,

Greg Trewitt

VP, Development and Engineering
Tierra Energy, LLC

cc: Docket Office
Service List

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

APPLICATION FOR CERTIFICATION FOR THE EASTSHORE ENERGY CENTER IN CITY OF HAYWARD BY TIERRA ENERGY	DOCKET NO. 06-AFC-6 (AFC Accepted 11/8/06) **PROOF OF SERVICE** (Revised 1/18/08)

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 06-AFC-6
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DECLARATION OF SERVICE

I, Lois Navarrot, declare that on April 28, 2008, I deposited copies of the attached **TIERRA ENERGY'S LETTER TO COMMISSIONER BYRON REGARDING PROJECT DELAYS** in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5 and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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

Lois Navarrot

Lois Navarrot