

the Commission's ability to complete its review of this project by next fall. Staff pointed out that the applicant's cooling proposal will require the Committee to address a number of complex legal and factual issues, including 1) state and regional policies discouraging the use of fresh water for cooling, including the Colorado River Regional Water Quality Control Board Basin Plan, State Water Resources Control Board Policies 75-58 and 88-63, and the Commission's own water policy articulated in the 2003 Integrated Energy Policy Report; 2) concerns expressed by the Bureau of Reclamation (BOR) to staff about the potential effect of this and other projects on the Colorado River (which could lead to BOR taking action in the future to prohibit groundwater use); 3) identification of reasonably foreseeable future projects in this area, 4) the role the State of California's interest in targeting this area for future solar development will play in the cumulative impacts analysis; and 5) indications that this project in conjunction with other reasonably foreseeable projects may lead to overdraft of the groundwater system and may create significant impacts on seeps, springs, and the plants and animals that depend on them.

Although the applicant's motion appears to assume that concerns about its proposal to use groundwater for cooling can be resolved by merely applying articulated laws and policies to the project, a Committee ruling on this issue would require evidentiary hearings on a number of complex factual issues. Significantly, the applicant's filing provides no indication as to why the factors identified above will not require extensive analysis, evidentiary hearings, briefing, and hence schedule delays. Given the challenges presented by the applicant's proposal to use groundwater, staff respectfully requests that the Committee issue an Order that provides for a longer schedule if the applicant is determined to continue advocating the use of groundwater for cooling. This resolution is consistent with the Committee's power to "regulate the conduct of the proceedings and hearings, including . . . disposing of procedural requests. . ." (Cal. Code Regs., tit. 20, § 1203, subd. (b).)

Finally, staff notes that its response to the applicant's Motion is influenced by the fact that completion of state and federal agency review of the projects seeking federal subsidies is extremely challenging. Because groundwater use issues are of concern to other state and federal agencies with decisionmaking roles, any schedule for briefing and hearing should accommodate the scheduling needs of those agencies. These agencies include BLM, the Colorado River Board of California, the U.S. Bureau of Reclamation, the State Water Resources Control Board, the Colorado River Regional Water Quality Control Board, the United States Fish and Wildlife Service, and the California Department of Fish and Game.

Staff has made these projects its highest priority and is working diligently with the applicant and other agencies to facilitate and coordinate their review. However, resolving complicated questions of fact and law will hinder our efforts and is likely to make it impossible to complete review by the federal funding deadline. Significantly, every other project seeking a decision by next fall has chosen to avoid the challenges associated with using groundwater for cooling. Staff strongly supports the effort to develop renewable energy projects on a schedule that allows for significant federal

support. However, projects whose development plans create complicated issues involving sensitive resources are likely be delayed in such a way that this outcome is not possible.

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Respectfully submitted,

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