



## COMMITTEE ORDER ON MOTION OF CITY OF HUNTINGTON BEACH RE PROCEEDING SCHEDULE

AES HUNTINGTON BEACH RETOOL PROJECT  
APPLICATION FOR CERTIFICATION,  
DOCKET NO. 00-AFC-13

### **Background:**

On December 1, 2000, AES filed its Application for Certification (AFC) to retool and operate Huntington Beach Units 3 and 4. On February 7, 2001, the Energy Commission voted to accept the AFC as complete and to commence the nominal 12-month siting review process.

### **Governor s Executive Order D-22-01:**

One day later, on February 8, 2001, Governor Davis issued his Executive Order D-22-01 in furtherance of his declaration of a State of Emergency (January 17, 2001) due to the energy shortage in the State of California. Executive Order D-22-01 provided in pertinent part that the energy supply emergency poses a threat to public health, safety, and welfare and requires that existing powerplants that are not currently operating, but have the capability to operate, be brought back on-line;

Executive Order D-22-01 ordered that the Energy Commission shall expedite to the extent feasible the processing of applications for certification for existing thermal powerplants that require retooling and a current license to operate. In order to bring such thermal powerplants online as soon as possible, the Energy Commission is authorized to reduce the time in which to conduct a reasonable review of the application, consistent with the objectives of environmental protection and the protection of the public health and safety.

### **Staff s Proposed 60-day Schedule:**

In the Energy Commission Staff s Issue Identification Report on the Huntington Beach AFC (2/16/01), Staff proposed a 60-day maximum schedule to complete the regulatory review process in response to the Governor s Executive Order D-22-01. Staff s proposed schedule was dependent upon the AES s timely response to data requests, the filing of a Determination of Compliance from the South Coast Air Quality Management District (SCAQMD), and other factors. Staff s proposed schedule included key events, such as SCAQMD s filing of the Preliminary Determination of Compliance, the Staff Assessment of environmental, public health, and engineering issues, a Proposed Decision, and Commission adoption of a Final Decision.

### **City of Huntington Beach Motion in Opposition to 60-day Schedule:**

At the February 21, 2001, Informational Hearing on the project in Huntington Beach, the City of Huntington Beach filed its *Motion in Opposition to Staff s Unilateral Recommendation for Expedited Proceedings*. The Motion asserts that the fast-track 60-day schedule contravenes the Commission s determination on February 7, 2001, at the time of acceptance to not expedite the proceeding. Furthermore, the City contends 60 days would not provide an adequate amount of time to gather necessary data and to thoroughly analyze the potential impacts of the project. The Motion enumerated a half-dozen issues of critical concern to the City. At the Informational Hearing, the City did not offer an alternative schedule, but suggested that the review could be expedited from the nominal 12-month schedule in light of the energy emergency.

**Committee Discussion:** The Governor has both declared a State of Emergency regarding the State's energy supply shortage and issued multiple Executive Orders designed to augment California's existing electricity supplies to the extent possible before the summer 2001 peak loads. As an Executive Department agency and the State's large power plant licensing authority, the Energy Commission is significantly challenged to license new generating capacity for the summer of 2001 and to protect the public health and safety and the environment at the same time.

The Commission has a 25-year tradition of an open, participatory public process and a thorough, informed review. In this instance, the Commission's traditional, 12-month AFC process cannot meet the Governor's goal of bringing significant new generating capacity online for the Summer of 2001.

Notwithstanding substantial de-construction of Units 3 and 4 to date, AES estimates that it will take 90 days to complete new construction to retool Units 3 and 4 and begin operation. AES cannot begin construction without certification by the Commission. Based upon simple arithmetic, 90 days of construction subtracted from the beginning of 2001 summer peak loads requires certification of the retooling project in early to mid-April 2001.

Consequently, the Committee accepts that a schedule on the order of 60 days, as proposed by Staff, is the only way to certify the retooling project in a way which brings needed new generation online in a timely way to meet gubernatorially-declared emergency needs.

However, to assure a regulatory review consistent with the objectives of environmental protection and the protection of the public health and safety, the Committee cannot be guided solely by a fast-track schedule.

Therefore, instead of being day or date fixated, the Committee will establish milestones within an expedited schedule to assure (1) that adequate information is available to the participants and the Commission to make an informed decision and (2) that all participants affected by the project have a meaningful opportunity to be heard. If any milestone cannot be substantially and satisfactorily met, the schedule must yield.

The milestones are:

1. The Staff Assessment shall be delivered electronically to all parties and public participants who have signed up with the Commission's Public Adviser and publicly available on the Commission's Website not later than noon, March 9, 2001. The combined information in the AFC and the Staff Assessment must *prima facie* present fully and accurately the potential environmental and health and safety impacts of the project. The Staff Assessment must include adequate and feasible mitigation in the form of Conditions of Certification to eliminate or reduce potential project impacts to a level of insignificance.
2. At the close of evidentiary hearings on March 16, 2001, the Committee must be satisfied that all significant environmental and public health and safety issues have been substantially addressed and that, without repetition, every relevant interest has been presented in the record of the proceeding.
3. The Presiding Member's Proposed Decision will have been timely delivered electronically to all parties and to the public and

available on the Commission's Website so as to afford a reasonable opportunity for comments before the matter is presented to the full Commission for deliberation and possible adoption.

If these milestones are achieved, the Committee believes that it will have provided a public, participatory process that affords due process of law and protects public health and safety and the environment while addressing California electricity emergency.

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**Order:**

The Committee establishes the schedule in Appendix A, subject to its review of the milestone events described above to assure that the review of the Huntington Beach Retool Project is consistent with the objectives of environmental protection and the protection of the public health and safety.

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**Dated:** 3/2/01

**ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

/s/  
ARTHUR H. ROSENFELD  
Commissioner and Presiding Member  
Huntington Beach AFC Committee

/s/  
ROBERT PERNELL  
Commissioner and Associate Member  
Huntington Beach AFC Committee

Appendix A

Huntington Beach AFC Schedule

March 9, 2001	Staff filed and distributes Staff Assessment (SA)
March 15, 2001	Committee Workshops on Staff Assessment and Application for Certification (AFC)
March 16, 2001	Committee Evidentiary Hearing on Staff Assessment, AFC, and results from prior Workshops
March 26, 2001	Committee files and distributes Proposed Decision; beginning of public comment period
March 4, 2001	Committee Hearing on Proposed Decision
April 11, 2001	Commission Hearing to consider and possibly adopt Proposed Decision
April 18, 2001	Back-up date for Commission Hearing on Proposed Decision