STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	) DOCKET No. 06-AFC-5
	)
Modification of the Certification	)
for the PANOCHE ENERGY CENTER	) September 28, 2007
	)

STAFF'S PREHEARING CONFERENCE STATEMENT

In an order dated September 17, 2007, the Energy Commission's committee overseeing the Panoche Energy Center ("PEC") case directed parties to file a prehearing conference statement for the October 2, 2007 prehearing conference. The Order stated that the Prehearing Conference Statements must be filed no later than 3:00 on September 28, 2007. This is staff's Prehearing Conference Statement.

1. Topic Areas that are Complete and Ready for Hearing

Staff believes that analyses of all areas are complete and ready to proceed to hearing.

2. Topic Areas that are Incomplete

None.

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3. Topic Areas in Dispute

Staff believes one topic area is in dispute and requires resolution:

Water and Soil Resources – Project's compliance with State water policy. Staff concludes that PEC's proposed use of fresh water from the lower confined aquifer for power plant cooling is contrary to California state water policy. Staff recommends PEC use the lower quality water found in the upper semi-confined aquifer. Two factual issues in dispute related to the state water policy are: (a) whether the proposed cooling water is "fresh inland water" under the policy and (b) whether the cost of filtration of the lower quality water recommended by staff is "economically unsound." The Energy Commission's decision on either of those two factual issues will determine whether the PEC's proposed use of cooling water from the lower-confined aquifer is contrary to, or consistent with, the state water policy. Staff recommends that the evidentiary hearing focus on these factual issues with respect to the state water policy. Further discussion and argument about the application of the state water policy should be left to briefs, if needed. Staff, thus, plans to offer factual and technical testimony by staff witnesses in the fields of hydrology and engineering.

(a) Fresh Inland Water

Following is a summary of staff's testimony explaining why staff concludes the proposed cooling water is "fresh inland water." The State Water Resources Control Board in Resolution 75-58 defines brackish waters as "all waters with a salinity range of 1,000 to 30,000 mg/l and a chloride range of 250-12,000 mg/l" and fresh inland waters as those "which are suitable for use as a source of domestic, municipal, or agricultural water supply and which provide habitat for fish and wildlife", (emphasis added).

The State Water Resources Control Board Resolution 88-63 defines suitability of sources of drinking water. Pursuant to that Resolution, the total dissolved solids must exceed 3,000 mg/l for water not to be considered suitable, or potentially suitable, for municipal or domestic water supply. Staff's testimony is that the confined aquifer contains a TDS level of 820-1100 mg/l with a concentration of chloride at 47 mg/l. Therefore, the water is considered "fresh inland water," when the State Water Resources Control Board's definition is applied.

(b) Cost of Water Treatment

As for the cost of treatment for the water from the upper semi-confined aquifer, staff's testimony will show that a filtration system capable of processing the semi-confined aquifer water in the required quantities would cost $4,912,000.00 for installation and have an annual operational cost of $468,000.00. PEC estimates such a system would cost $12,000,000.00 for installation with an annual operational cost of $2,930,375.00. Under staff's proposal, the installation cost is not "economically unsound" in that it would be 1.5% of the estimated $263,000,000.00 in capital costs for the entire facility. The primary reason for the difference is PEC's choice of technology, lime and soda ash softening verses staffs' proposed nano-filtration.

4. Staff's Witnesses, their Topic Areas, Qualifications, and Time for Direct

The staff witnesses for the contested area include: Somer Goulet, M.S.E.L., Linda D. Bond, P.G., John Kessler, P.E., and Richard Anderson. Witness qualifications can be found at the end of the FSA. Staff plans to conduct direct examination of the witnesses as a panel. It is estimated the direct examination will take about twenty minutes. PEC has indicated it will be sponsoring the San Joaquin Valley Air Pollution Control District's Determination of Compliance.

5. Topic Areas for Cross Examination, Summary of Cross, and Time Requested

Applicant has yet to file any testimony, but staff anticipates cross-examining witnesses on the subject of fresh water and water filtration systems. Staff estimates cross-examination will take twenty minutes.

6. Exhibits and Declarations

Staff will offer the FSA as exhibit 100.

7. Proposal for Additional Hearings

Currently there are no proposed additional hearings. If necessary, staff proposes October 31, 2007, as the due date for any post hearing briefs, provided transcripts from the Evidentiary Hearing are available.

8. Changes to Proposed Conditions of Certification

Currently there are no proposed changes to the conditions of certification found in the final staff assessment.

Date: September 28, 2007

Respectfully submitted,

Jared Babula
Attorney for Commission Staff

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	) DOCKET No. 06-AFC-5
	)
Modification of the Certification for the PANOCHE ENERGY CENTER	) PROOF OF SERVICE (Revised 07/12/2007)
	)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

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Attn: Docket No. 06-AFC-5
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DECLARATION OF SERVICE

I, Julie Mumme, declare that on September 28, 2007, I deposited copies of the attached Staff's Prehearing Conference Statement in the United States mail at Sacramento, CA 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 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.

Julie Mumme