

Memorandum

Date : October 23, 2001

To : Steve Larson, Executive Director

From : **California Energy Commission** - Bob Therkelsen, Deputy Director
1516 Ninth Street
Sacramento, CA 95814-5512
Systems Assessment & Facilities Siting

Subject : **ITEM FOR THE OCTOBER 31, 2001 BUSINESS MEETING: PETITION TO AMEND THE CALPEAK BORDER PROJECT (01-EP-14) TO EXTEND THE SEPTEMBER 30, 2001 ON-LINE DATE**

COMMISSION ACTION REQUESTED

Staff recommends that the Energy Commission approve, without sanctions, the amendment petition filed by CalPeak on September 25, 2001 to extend the on-line date for the CalPeak Border Project beyond the September 30, 2001 deadline specified in the Commission's Decision (01-EP-14). CalPeak is requesting an extension of the on-line date to November 7, 2001.

PROJECT HISTORY AND SETTING

The Border Project is a 49.5 MW emergency simple cycle, natural gas-fired power plant, located in the City of San Diego. The Commission certified the Border Project on July 11, 2001. Construction was initiated on July 28, 2001 and work has been conducted 7 days a week 24 hours a day. The Border Project may come on-line prior to November 7, 2001. Construction is essentially complete, "first fire" has been completed, the gas compressors have been installed, synchronization to the electrical grid has occurred, and final commissioning is underway.

PROPOSED AMENDMENT

CalPeak requires an extension of the September 30, 2001 on-line date for the Border Project because of several unforeseen and uncontrollable events concerning delays to manufacturer components, and delays in installation of phone lines required for telemetry. The delayed components included critical path Selective Catalytic Reduction (SCR) air emission control system and gas compressor components that were delayed by the manufacturers. Committed shipping dates linked to the September 30 deadline were missed. In addition, the September 11, 2001 terrorist attack impacted transportation for critical personnel and components to the Border Project site.

STAFF ANALYSIS

The attached staff analysis is based on the Commission's CalPeak Border LLC Project Decision, which states:

"Start of Operations: The CalPeak Border Project shall be on line by no later than September 30, 2001. If the CalPeak Border Project is not operational by September 30, 2001, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the CalPeak Border Project in operation by September 30, 2001, the Applicant shall forfeit its certification."

Based on the Commission's July 11, 2001 decision certifying the project, Staff's analysis focused on the cause of the delay and whether sanctions, including forfeiture of certification should CalPeak be deemed to have failed to proceed with due diligence, to have the CalPeak Border Project in operation by September 30, 2001, are appropriate.

If the Commission finds that CalPeak proceeded with due diligence, the Commission should approve CalPeak's petition to amend the Decision to extend the on-line date, and must decide if sanctions are appropriate. If the Commission finds that the project owner failed to proceed with due diligence, the Commission should require CalPeak to forfeit its certification in accordance with the Decision.

As stated in the attached analysis, notwithstanding the delay in initiating construction, CalPeak has consistently acted aggressively in trying to meet the September 30 deadline at considerable costs, and was faced with unforeseen delays in receiving critical components from manufacturers. Staff does not believe that sanctions are appropriate and is of the opinion that CalPeak proceeded with due diligence in an attempt to meet the September 30, 2001 on-line date. Therefore, staff recommends that CalPeak's amendment petition to extend the on-line date of the Border Project be approved and the Commission's Decision be amended as follows:

Start of Operations: The CalPeak Border Project shall be on line by no later than *November 7, 2001*. If the CalPeak Border Project is not operational by *November 7, 2001*, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the CalPeak Border Project in operation by *November 7, 2001*, the Applicant shall forfeit its certification.

PUBLIC REVIEW

The amendment petition has been docketed, and the attached staff analysis will be posted on the Commission's web page, emailed to the emergency peaker email list, and mailed to parties on the normal mailing list on October 23, 2001.

STAFF CONCLUSION AND RECOMMENDATION

As mandated by Title 20, section 1769(a)(3) of the California Code of Regulations, the Energy Commission may only approve project modifications if specific findings are made. Based on staff's review of the proposed amendment, and subject to the existing conditions of certification, staff recommends approval of the proposed amendment, without sanctions, based on the following findings:

- A. There will be no new or additional unmitigated significant environmental impacts associated with the proposed changes.
- B. The facility will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code Section 25525.
- C. The change will be beneficial to the applicant and the public. In this case, the amendment will be of benefit to the project owner to provide completion of the project after the September 30, 2001 deadline. The extension will be of benefit to the public by providing additional power during peak electrical demand.
- D. The amendment to extend the on-line date is a result of CalPeak's good faith effort to exercise due diligence in meeting the September 30, 2001 online date.

COMPLIANCE PROGRAM STAFF

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BUSINESS MEETING PARTICIPANTS

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