

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512

June 28, 2001

J. Nelson Happy
CENCO Electric Company
12345 Lakeland Road
P.O. Box 2108
Santa Fe Springs, CA 90670

INITIAL REVIEW OF THE CENCO ELECTRIC EMERGENCY PERMITTING PROPOSAL (01-EP-15)

Dear Mr. Happy:

Energy Commission staff has completed its initial review of the CENCO Electric Company (CENCO) emergency permitting application, which you filed with the Commission on June 25. Staff has determined that the application is not complete, and is concerned about the Commission's jurisdiction over this project and whether the project qualifies for the emergency permitting process. The application describes the project as having 50 MW nominal capacity, while the cover letter and air quality self-certification checklist state the capacity is 49.5 MW. The Energy Commission's jurisdiction extends only to thermal powerplants of 50 MW capacity or greater. If the project is rated at 49.5 MW, it does not qualify for review under any of the Energy Commission's certification processes, including the emergency permitting process. Some exceptions to the 50 MW rule have been made this spring under Executive Orders D-26 and D-28, issued by Governor Davis in February and March. Those orders allow projects that have a current contract with the Independent System Operator (ISO) to apply to the Energy Commission for emergency permitting. CENCO does not have one of the contracts with the ISO, and so does not qualify for this exception to our normal permitting jurisdiction. If you choose to further pursue this project with the Energy Commission, you will have to clarify the rated capacity of the project to demonstrate that it is 50MW or greater.

Staff has also determined that, based on the information provided and the anticipated timeline for permit review, this project is very unlikely to be on-line by September 30, 2001, as required under the emergency permit process. Based on this initial review, staff concludes that this project, even if it falls within the Energy Commission's jurisdiction, does not qualify for the emergency permitting process. If you believe that the project can be brought on-line by the end of September, we are willing to discuss the matter with you further and to review any additional information or submittals that you have that might clarify the project schedule.

The preliminary construction schedule included in your application indicated you will require three months to bring the project online, including two weeks for site preparation work. Based on the information provided, CENCO will need to start grading the project by July 16 to meet the September 30 deadline for emergency projects to be on-line. Because you do

not plan to file your application with South Coast Air Quality Management District (SCAQMD) until July 3 and a copy of that application is a requirement for our review, we do not anticipate being able to begin our emergency review process until July 5 or later. We do not anticipate a Commission decision on the project earlier than July 26. Further delays are possible if the SCAQMD application is not complete on the first submission, or if the supplemental information you provide to us is provided later than July 3 or is not complete. Staff concludes that the most optimistic scenario would not have your project on-line before October 10.

Staff is also concerned about two additional timing issues that could significantly delay the initial start-up of this project. Based on federal Clean Air Act requirements, this project will require a 30-day public comment period on the draft Permit to Construct. In your application, you state that you will request an Administrative Order of Consent from the US EPA to allow construction to begin without the Permit to Construct. EPA has issued such orders for some of the emergency projects, but we understand that they are determining whether to issue the orders on a case by case basis. The EPA has not been willing to grant such orders until the draft Permit to Construct has been issued by the local district and the Energy Commission has certified the project. In addition, the orders that EPA has issued for other projects merely state that EPA will not take enforcement action, though the local district and other parties are not enjoined from taking action to stop construction. Based on these considerations, staff believes that the start of construction is likely to be delayed to the end of the 30-day comment period or longer. Such a delay would push the start of operation of this facility to the end of October or later.

The application also states that CENCO plans to initially operate with a water injection system designed to limit NO_x emissions to 25 ppm, and to install "within one year of initial operation" a selective catalytic reduction (SCR) system to reduce NO_x emissions to 5 ppm. SCAQMD has not granted a permit to any project that would allow them to exceed the BACT emissions limits. However, SCAQMD has agreed to a stipulated Order of Abatement in some emergency cases that allows initial operation for a period of months without SCR equipment in place. SCAQMD has reviewed such requests for an Order of Abatement on a case by case basis, and has not agreed to stipulate to such an order in all cases. Since SCAQMD has not yet received an application from CENCO for this project, it is impossible to tell whether this project would be allowed to operate without SCR. Based on the information supplied in your application to the Energy Commission, it appears that CENCO does not yet know when it will be able to install SCR for this project. If CENCO is not allowed to operate without SCR, the information in the application suggests that the project might not be online before the second half 2002.

I have attached a copy of the checklist that summarizes staff's findings concerning the completeness of the application. Staff identified deficiencies in most technical areas. The primary problems are the lack of a copy of the application for air permits to the SCAQMD and the lack of a copy of the application for transmission interconnection, and the lack of information on whether a new water supply pipeline will be needed. If you choose to pursue

this project further in the emergency process, you will need to submit a supplement to your application that addresses the items identified as incomplete in the checklist, in addition to the jurisdiction and timing issues discussed above.

After review of your application, Energy Commission staff believes that your project cannot be online before mid-October, and could be delayed for months beyond that. For this reason, staff does not currently believe that this project qualifies for the emergency permit process established by the Energy Commission under the Governor's executive orders. If your project is at least 50 MW and you still believe that your project can be on-line by September 30, you may file supplemental information completing your application and clarifying the schedule for bringing your project on-line. If you decide not to pursue a permit under the emergency process, you may re-file the project under one of our other permitting processes. If you have questions or would like to discuss the project further, please contact Kevin Kennedy, Siting Project Manager, at (916) 651-8836, or by e-mail at kkennedy@energy.state.ca.us.

Sincerely,

ROBERT L. THERKELSEN, Deputy Director
Systems Assessment & Facilities Siting

Enclosure