

STAFF ANALYSIS OF CALPINE CORPORATIONS REQUEST
TO EXTEND THE SEPTEMBER 30, 2001 ON-LINE DATE
FOR THE CALPINE GILROY CITY LM 6000 PHASE-1 PROJECT
(01-EP-08)

INTRODUCTION

The Calpine Gilroy City LM 6000 Phase-1 Project (Gilroy Project) is a 135 MW emergency simple cycle, natural gas-fired power plant, located in the City of Gilroy. The Commission certified the Gilroy Project on May 15, 2001. Construction was initiated on June 6, 2001 and work has been conducted 7 days a week since initial ground clearing. The Gilroy Project is comprised of three 45 MW gas turbine generators. Construction activities are essentially complete for the first two turbines, and will be complete within several weeks for the third turbine.

Calpine Corporation (Calpine) is requesting that the Commission extend the on-line date for the Gilroy Project beyond the September 30, 2001 deadline specified in the Commission's Decision (01-EP-08). Calpine is requesting an extension of the on-line date to November 30, 2001. Calpine has already completed "first fire" of the first turbine, and the first turbine is ready to synchronize to the electrical grid. The second turbine will "first fire" by October 27, 2001. Calpine is installing Selective Catalytic Reduction (SCR) air pollution control system components and related systems on the third turbine. All three turbines are scheduled to be complete and ready to operate continuously prior to transmission interconnection by PG&E, now scheduled for November 30, 2001.

Calpine requires an extension of the September 30, 2001 on-line date for the Gilroy Project due to several unforeseen and uncontrollable events that delayed construction activities at the project site. These included the discovery of a human tooth and other possible human remains and the nationwide disruption of air traffic and shipping resulting from the September 11th terrorist attacks. These actions resulted in the delay of several critical path activities required for the timely completion of the project.

Staff's analysis is based on the following requirement as specified in the Commission's Decision for the Gilroy Project:

"Start of Operations: The Gilroy City LM 6000 Project shall be on line by no later than September 30, 2001. If the Gilroy City LM 6000 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 Gilroy City LM 6000 Project in operation by September 30, 2001, the Applicant shall forfeit its certification.”

Calpine has filed a petition for an amendment extending its on-line date from September 30, 2001, to November 30, 2001, pursuant to Title 20, section 1769(a)(1) of the Siting Regulations. This amendment petition is required because the failure to meet the September 30, 2001 on-line date constitutes a modification to the project’s operation or performance requirements. Namely, they will not be operating on September 30, 2001.

APPROACH

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 Calpine be deemed to have failed to proceed with due diligence, to have the Calpine Gilroy Project in operation by September 30, 2001, are appropriate.

If the Commission finds that Calpine proceeded with due diligence, the Commission should approve Calpine’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 Calpine to forfeit its certification in accordance with the Decision.

BACKGROUND

The Governor declared a state of emergency on January 17, 2001, and issued several executive orders to alleviate an energy supply emergency. In this regard, the Governor ordered the Commission to expedite the processing of applications for peaking and renewable power plants. The Executive Orders covered projects that could be on-line in 2001 and 2002. This project was permitted to not only be on-line for this summer (by September 30, 2001), but also 2002.

All ten of the other emergency projects approved by the Commission agreed to have their power plants operational by the September 30 deadline as a condition of their permit. The first six projects permitted in 2001 (Larkspur, Indigo, Drews, Century, Hanford and Enterprise) are currently operational.

Four projects permitted under the emergency permitting process have not met the required September 30, 2001 on-line date. On August 22, 2001, the Commission approved an amendment for one of those projects, the 50 MW

Calpine King City Project, to extend the on-line date to December 28, 2001. The 49.5 MW CalPeak Border Project was not operational on September 30, 2001 and filed an amendment petition on September 25, 2001, to extend their on-line date. The 180 MW Pegasus project has suspended construction, does not have a power purchase agreement from the California Department of Water Resources, and is currently in negotiations for the sale of the project to the new California Power Authority. Pegasus filed an amendment petition on October 1, 2001 to extend it's on-line date and is in the process of responding to data requests issued by staff in order to complete it's petition. Pegasus is also considering filing an application under the Commission's 4-month permitting process. The Ramco Chula Vista project was terminated prior to construction due to market conditions.

CALPINE GILROY PROJECT TIMELINE

- April 26, 2001 - Calpine filed AFC under Emergency Permitting Process.
- May 15, 2001 - The Commission certified the Gilroy Project.
- May 25, 2001 - Calpine obtained site control for the Gilroy Project.
- On or about May 29, 2001 – United States Fish and Wildlife Service (USFWS) approved Calpine's survey methods required to start construction.
- June 6, 2001 - Calpine cleared all requirements for permanent construction and received authorization to start construction from Commission staff and began site mobilization, demolition of existing structures, site clearing, and grading.
- June 29, 2001- Calpine initiated a 7 day per week construction schedule.
- July 7, 2001- Calpine initiated construction of permanent concrete foundations and structures.
- July 15, 2001 - PG&E provided transmission interconnection agreement to Calpine for signature.
- August 8, 2001- Calpine initiated 24 hour, seven-day construction schedule in order to meet construction milestones and on-line deadline. Construction activities included installing number one and two combustion turbine generators, erection of SCR components, trenching and general electrical activities.
- August 8, 2001 - Calpine obtained additional off-site storage yards for critical path equipment to provide clear access for the large number of workers and

to allow several phases of construction to occur concurrently at the project site.

- August 15, 2001- Calpine signed transmission interconnection agreement with PG&E. PG&E notified Calpine that procurement of necessary interconnection equipment would not be available for the September 30, 2001, deadline.
- August 29, 2001- Calpine notified staff that two of the three turbines would be operational by September 30, 2001, and the third turbine would be operational by mid-November.
- September 1, 2001 - Calpine notified Commission staff that a Native American tooth had been discovered during excavation for the electrical conduit associated with the Power Distribution Center. Excavation was suspended within a 100-foot radius of the discovery pending submission of an archaeological testing plan required under the Commission's Conditions of Certification for the project.
- September 7, 2001 - Staff authorized Calpine to commence testing per a Commission approved plan submitted by Calpine. During testing of the site a jawbone that appeared to be a human was discovered. Work was suspended in the area again while Calpine notified the Gilroy Police Department. A crime scene was declared and both the jawbone and Native American tooth were taken into custody by the Gilroy Police Department, and transported to the coroner.
- September 9, 2001 - Coroner determined jawbone is not human. Crime scene released. Work still restricted in this area pending outcome of final archaeological testing of trench required for Native American tooth.
- September 10, 2001 - Calpine resumed archaeological excavation of the trench.
- September 11, 2001 - Air traffic suspended across the country due to terrorist attacks. Calpine suspended work at the project site for one day.
- September 12, 2001 - Work resumed at the project site with the exception of the area where the Native American tooth was located.
- September 14, 2001 - Native American tooth released by Santa Clara County Coroner. Calpine notified staff that delivery of necessary equipment for turbine operation would be delayed due to terrorist attack related suspension of aircargo.

- September 16, 2001 - Native American tooth reentered onsite and construction resumes near the electrical trench area and all required construction activities resume within previously excluded 100 foot buffer area.
- September 24, 2001 - Calpine received equipment delayed due to September 11 events.
- September 26, 2001 - Calpine notified staff of potential delay to their on-line date due to delays associated with cultural finds and the crime scene.
- October 1, 2001 – Calpine provides staff with letter describing the circumstances that resulted in the facility missing the September 30th on-line date. Letter provided chronology of events including discovery of human tooth, jawbone, terrorist activity and associated concerns with third party contractors and how these actions delayed construction.
- October 1, 2001 - Staff requested that Calpine file a petition to extend the on-line date, including requirements in Section 1769 of the Commission's Regulations, a timeline describing the events resulting in the on-line delay, specified new on-line date, detailed construction schedule, and specific measures Calpine would implement to ensure the new schedule is met.
- October 10, 2001- Calpine "first fired" turbine number one. However, turbine is not able to interconnect to electrical grid because PG&E has not completed installation of all necessary equipment, including life safety equipment, required for interconnection.
- October 15, 2001 – PG&E notified staff that they were working with Calpine to interconnect the Gilroy Project as soon as possible, but would not have all of the interconnection work completed unit mid to late November.
- October 16, 2001 – Calpine notified staff that they were having problems with regards to interconnection due to PG&E's inability to procure equipment. Staff encouraged PG&E to accelerate interconnection work.
- October 16, 2001- Calpine filed petition to extend the September 30, 2001 on-line date.
- October 27, 2001- Calpine plans to "first fire" turbine number two.
- November 30, 2001, or earlier- Proposed "first fire" for turbine number three and scheduled PG&E interconnection to the electrical grid for all three units.

ANALYSIS

The following points suggest that Calpine proceeded with due diligence to meet the September 30 on-line date:

- After the demolition of existing structures and grading was completed Calpine mobilized a substantial number of workers and initiated an aggressive construction schedule at the site.
- Calpine procured two combustion turbine generators and other required equipment in advance of foundation pouring.
- To facilitate the development of several independent stages of construction and ensure adequate workspace, Calpine obtained off-site storage yards. This provided Calpine the ability to procure and store critical path components needed for the timely completion of the project at a local site.
- Calpine utilized numerous construction crews to complete multiple tasks simultaneously to expedite the development of the project. This maintained the highest level of contractors possible on the site while maintaining safety.
- The discovery of a human tooth and other possible human remains and the nationwide disruption of air traffic and shipping resulting from the September 11th terrorist attacks resulted in the delay of several critical path activities required for the timely completion of the project. In addition, PG&E notified Calpine that the scheduled interconnect date of September 30, 2001 would not be made due to constraints in obtaining required electrical components from PG&E manufacturers.
- Despite delays resulting from cultural finds, Calpine continued 24-hour construction in an effort to meet the September 30 on-line date. Although the jawbone was determined not to be human, this action and the find of the Native American tooth resulted in a significant delay to several different stages of work currently underway that impacted Calpine's ability to meet the September 30, 2001 deadline. During this time Calpine engaged in diligent efforts to resolve the issue in a timely manner, continued construction in designated areas, and continued a 24-hour construction schedule.
- Calpine conducted a "first fire" of the number one turbine on October 10, 2001 and was ready for interconnection to the electrical grid. However, PG&E had not yet received the thermal overload protection components required for safe interconnection. On August 15, 2001 Calpine signed the interconnection agreement with PG&E and PG&E issued orders to their manufacturers for required interconnection components. However, PG&E manufacturers were not able to provide these specialized components in a timely manner and PG&E notified Calpine there might be a delay in the

September 30th deadline. Although Calpine did not immediately inform staff of this potential delay, Calpine continued aggressive efforts to obtain the necessary equipment for interconnection and believed the plant would be operational by the September 30th deadline. To date, Calpine has informed staff that PG&E will obtain scheduled delivery of key components in time to ensure a November 30, 2001, interconnection and on-line date.

The following points suggest that Calpine may not have proceeded with due diligence to meet the September 30 on-line date:

- Calpine did not have site control at the time of certification and had not completed sensitive bird surveys required by the USFWS. This resulted in a 22 day delay in the initiation of construction. For 13 additional days, construction at the site was limited to day light hours and activities producing modest noise levels to prevent possible impacts to sensitive bird species. The utility interconnection issues aside, had Calpine not delayed construction for 22 days, they may have completed the first two turbines prior to the September 30 deadline.
- Calpine failed to notify Commission staff of the possible delay associated with the PG&E interconnection. This prevented Commission staff from providing assistance to Calpine in meeting the on-line date.

CONCLUSION

Despite the initial delay in construction, Calpine has consistently acted aggressively in trying to meet the September 30 deadline. As of October 10, 2001, the first turbine of the Gilroy Project completed first fire and the second turbine is expected to be ready by October 27. At this time the majority of the project is essentially complete, the third turbine is well under construction, and interconnection to the electrical grid is expected to occur on or before November 30, 2001.

Based on the information provided by Calpine, and staff's independent review, staff does not believe that sanctions are appropriate, and is of the opinion that Calpine proceeded with due diligence in an attempt to meet the September 30, 2001, on-line date.

In reaching this conclusion, staff finds that the change to the Gilroy Project on-line date is based on information that was not available to the parties prior to Commission certification (in that the delay associated with cultural finds, crime scene requirements, and interconnection components, were not expected). Staff also finds that, with this change, the Gilroy Project will not result in potential for significant environmental impact, will remain in compliance with Laws,

Ordinances, Regulations, and Standards (LORS), will be beneficial to the project owner and the public, and will remain in compliance with the existing Conditions of Certification approved by the Commission under the Emergency Siting Process.

RECOMMENDATIONS

Staff recommends that Calpine's amendment petition to extend the on-line date of the Gilroy Project be approved and the Commission's Decision be amended as follows:

Start of Operations: The Calpine Gilroy Project shall be on line by no later than *November 30, 2001*. If the Calpine Gilroy Project is not operational by *November 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 Calpine Gilroy Project in operation by *November 30, 2001*, the Applicant shall forfeit its certification.

Dated: October 23, 2001

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