

COMMITTEE CONFERENCE and EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 98-AFC-4
SUNRISE POWER PROJECT)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, DECEMBER 4, 2000

10:05 A.M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Michal C. Moore, Presiding Member

Robert Pernell, Associate Member

STAFF PRESENT

Gary Fay, Hearing Officer

Ellen Townsend-Smith, Advisor to
Commissioner Pernell

Caryn Holmes, Staff Counsel

Mark Pryor

Joseph Loyer

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Edison Mission Energy

INTERVENORS PRESENT

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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P R O C E E D I N G S

10:05 a.m.

HEARING OFFICER FAY: Good morning.

This is a Committee Conference and Evidentiary Hearing noticed by the Committee on November 21st, and we will be taking comments from the parties on the revised PMPD, revised Presiding Member's Proposed Decision. And also, as was indicated in the notice, we'll be taking into evidence the final determination of compliance from the San Joaquin Valley Unified Air Pollution Control District. And documentation of the project ownership transfer to Edison Mission Energy.

So, I'd like to begin with the comments of the parties, and we'll move first to Mr. Galati.

MR. GALATI: Scott Galati on behalf of the applicant, Sunrise Power Company, with John Grattan, as well. Also present are Lindell Blair from Edison Mission Energy, Victor Yamada from Edison Mission Energy, Mervyn Soares from Texaco and David Stein and Don Muraoka from URS.

We submitted comments which were docketed on the revised PMPD. Those comments addressed the air quality conditions. What we did

1 is we showed in redline strikeout format the air
2 quality conditions as modified by the FDOC, which
3 was issued on November 27th, and docketed on
4 November 29th.

5 Our understanding is that staff has
6 reviewed this document, our comments and changes
7 to those conditions, and has agreed with those
8 changes to conditions.

9 In addition, we reviewed staff's
10 comments on the revised PMPD dated December 1,
11 2000, and we agree with staff's proposed changes
12 with the minor exception of staff's new AQ-43,
13 actually duplicates our comments on AQ-2, and I
14 think staff can address that.

15 That actually concludes our written
16 comments. We have one additional comment
17 regarding appendix A to the revised PMPD sets
18 forth the project LORS.

19 HEARING OFFICER FAY: Can you give us a
20 page reference?

21 MR. GALATI: Yes, that's appendix A,
22 page 2. There's air quality table 20 at the top
23 of the page. Sets forth BACT determinations and
24 emission limits. And we recommend that that table
25 be modified to reflect the emission limits set

1 forth in AQ-15 on page 150 of the revised PMPD.

2 PRESIDING MEMBER MOORE: Could you say
3 that last part again? What's on page 150?

4 MR. GALATI: Air quality table 20, which
5 is shown on appendix A, --

6 PRESIDING MEMBER MOORE: Right.

7 MR. GALATI: -- page 2, the emission
8 limitations in that table should be revised to
9 reflect the emission limitations set forth in the
10 condition of AQ-15 on page 150.

11 Basically this was something that didn't
12 get changed from the cogeneration determination --
13 cogeneration project.

14 HEARING OFFICER FAY: And that's page
15 150 of the revised PMPD?

16 MR. GALATI: That's 150 of the revised
17 PMPD, condition air quality AQ-15.

18 HEARING OFFICER FAY: Okay. And could
19 you just walk us through the changes? Is that
20 something you can do briefly?

21 MR. GALATI: Actually I'll ask Dave
22 Stein to help with that.

23 PRESIDING MEMBER MOORE: You just pull
24 them over, and they're right --

25 HEARING OFFICER FAY: Oh, is it in the

1 same format?

2 PRESIDING MEMBER MOORE: Yes. Right,
3 they're in the same --

4 MR. GALATI: Mr. Stein could go over
5 that real quick to make the record complete.

6 HEARING OFFICER FAY: Okay, why don't we
7 just run through it, just to be clear.

8 MR. STEIN: David Stein with URS for the
9 applicant.

10 There are three changes in appendix A,
11 air quality table 20. The NOx concentration limit
12 is currently shown as 2.5 ppm at 15 percent O2.
13 That should be changed to 9 ppm to be consistent
14 with AQ-15.

15 The VOC concentration is --

16 HEARING OFFICER FAY: But still at 15
17 percent?

18 MR. STEIN: At 15 percent, that's
19 correct. And one hour average.

20 The VOC concentration of 1.2 ppm at 15
21 percent O2 three hour average should be changed to
22 1.3 ppm volume dry at 15 percent O2.

23 HEARING OFFICER FAY: Insert after ppm,
24 volume dry?

25 MR. STEIN: Yes. Actually both the VOC

1 and the NOx are by volume and on a dry basis. And
2 the CO concentration should be changed to 7.5 ppm
3 volume dry at 15 percent O2.

4 HEARING OFFICER FAY: And the hour
5 averages are all the same?

6 MR. STEIN: That's correct.

7 HEARING OFFICER FAY: Okay. Does staff
8 concur with these changes?

9 MS. HOLMES: I think that's a yes.

10 HEARING OFFICER FAY: Affirmative?

11 MS. HOLMES: Yes.

12 HEARING OFFICER FAY: Okay, good, thank
13 you. And so this is just to conform the LORS to
14 AQ-15?

15 MR. STEIN: That's correct.

16 HEARING OFFICER FAY: Okay, thank you.
17 Anything further?

18 MR. GALATI: That actually concludes our
19 comments on the PMPD, other than the portion of
20 the evidentiary hearing on marking the DOC and the
21 affidavit concerning ownership, which I could do
22 at this time if you prefer.

23 HEARING OFFICER FAY: Okay, why don't
24 you go ahead and introduce the final DOC and the
25 ownership documents.

1 MR. GALATI: The final DOC issued to
2 Sunrise, for the Sunrise Power Project, dated
3 November 27, 2000, and docketed on November 29,
4 2000, I'd asked that that be marked for
5 identification and moved into evidence.

6 HEARING OFFICER FAY: The next exhibit
7 number is exhibit 126. Any objection to receiving
8 that into evidence?

9 MS. HOLMES: (Negative head nod.)

10 HEARING OFFICER FAY: And can you
11 identify that a little more thoroughly, Mr.
12 Galati, since I'm sure there's a number of drafts
13 that have floated around.

14 MR. GALATI: Correct. This FDOC
15 includes a cover letter signed by Seyed Sadredin,
16 Director of Permit Services, from the San Joaquin
17 Valley Unified Air Pollution Control District,
18 dated November 27, 2000, written to Mr. Marc
19 Pryor, Siting Project Manager, entitled, final
20 determination of compliance (FDOC) for the
21 proposed Sunrise Power Project #1001194
22 (98-AFC-4).

23 Will that suffice?

24 HEARING OFFICER FAY: Is there any
25 objection to receiving this document into evidence

1 as the official, final determination of compliance
2 from the San Joaquin District? Ms. Holmes?

3 MS. HOLMES: No objection.

4 HEARING OFFICER FAY: Does CURE have any
5 objection?

6 MS. POOLE: We have no objection.

7 HEARING OFFICER FAY: All right, thank
8 you. Is there any other party of record here
9 today? Okay, I see no indication.

10 Thank you.

11 And have you got another submittal?

12 MR. GALATI: Yes, I have another
13 document. This document is entitled, affidavit
14 regarding change of ownership. It is on Edison
15 Mission Energy letterhead. Executed on the 17th
16 date of November 2000 by Gerard P. Loughman,
17 L-o-u-g-h-m-a-n, Vice President, Business
18 Development, Americas.

19 And it is an affidavit attesting that
20 the purchase agreement of the Sunrise Power
21 Company's, all of its -- excuse me, 100 percent of
22 the issued and outstanding capital stock, that
23 purchase from Texaco has been completed on
24 November 17, 2000.

25 HEARING OFFICER FAY: And did the

1 District have that information before it prior to
2 issuing its final determination of compliance?

3 MR. GALATI: Correct. It did, and that
4 is also evidenced by the facility owner listed as
5 Edison Mission Energy.

6 HEARING OFFICER FAY: In the final DOC?

7 MR. GALATI: Correct.

8 HEARING OFFICER FAY: All right. That
9 will be exhibit 127.

10 MR. GALATI: I'd like that moved into
11 evidence, please.

12 HEARING OFFICER FAY: Is there any
13 objection to receiving that into evidence, as
14 evidence of the transfer of ownership of the
15 project?

16 MS. HOLMES: No objection.

17 HEARING OFFICER FAY: Any other party?

18 All right. That will be received into evidence at
19 this point. Thank you.

20 Anything further, Mr. Galati?

21 MR. GALATI: That will conclude our
22 comments on the PMPD and our evidence.

23 HEARING OFFICER FAY: Okay. We'll move
24 to the staff, then. Ms. Holmes.

25 MS. HOLMES: Staff filed written

1 comments on December 1st. I think that rather
2 than go through them we'll just say that those
3 remain our comments with two exceptions.

4 On page 2, under air quality, general
5 comment, the date of August 25, 2000 is an error,
6 and should be deleted.

7 And second, in response to Mr. Galati's
8 comments about AQ-43, staff is in agreement, and
9 recommends that the language that we included on
10 page 3 of our comments with respect to AQ-43 be
11 deleted.

12 HEARING OFFICER FAY: Is it only AQ-43,
13 or is it also AQ-44?

14 MS. HOLMES: I believe it's only AQ-43.

15 HEARING OFFICER FAY: Okay. Has staff
16 had an opportunity to review -- I'm sorry, has the
17 applicant had an opportunity to review the staff
18 comments?

19 MR. GALATI: Yes, we have, and we agree,
20 there's one additional minor change, I believe.
21 Yes, the reference to --

22 MS. HOLMES: Perhaps we should go off
23 the record for one minute.

24 HEARING OFFICER FAY: Okay, fine. Let's
25 go off the record.

1 (Off the record.)

2 HEARING OFFICER FAY: Ms. Holmes.

3 MS. HOLMES: I believe that Mr. Galati
4 was reflecting the fact that he's discovered an
5 error in staff comments. On page 3 of the staff
6 comments, staff provided recommendations for AQ-
7 41. That should be for AQ-42.

8 HEARING OFFICER FAY: Okay. I've got a
9 few questions, as well. Some of which you have
10 already addressed.

11 I assume AQ-44, which is a new condition
12 proposed by staff, should be renumbered to the
13 next number in order, which I suppose would be AQ-
14 43?

15 MS. HOLMES: That's correct.

16 HEARING OFFICER FAY: Staff's comments
17 regarding the alternatives on page 1 of your
18 comments, I was unable to locate your references
19 in the last sentence on the first paragraph to
20 page 62 of the revised PMPD, and three paragraphs
21 on page 27. I just wasn't sure if --

22 MS. HOLMES: I apologize, I don't have a
23 copy of the PMPD with me. Didn't make it down in
24 the pile of things --

25 HEARING OFFICER FAY: What sometimes

1 happens is staff members pull these down off the
2 webpage, and the numbers --

3 MS. HOLMES: That's, yeah, I believe
4 that's possible.

5 HEARING OFFICER FAY: -- do not match
6 the printed copy. I'd just like to -- it's hard
7 to implement your desires if we can't find the
8 place.

9 MS. HOLMES: Page 26, I think it perhaps
10 was a reversion error as opposed to pulling it off
11 the webpage. It's page 26, not 62.

12 HEARING OFFICER FAY: Page 26, okay.
13 And the second reference is correct, is it?

14 MS. HOLMES: Correct.

15 HEARING OFFICER FAY: Okay, to delete
16 those three paragraphs is your recommendation.
17 All right.

18 Then the other question I have is in
19 staff's view they seem to stress that the
20 timeliness of the time schedule of the applicant
21 is not relevant to limiting the discussion of
22 alternatives.

23 But I just want to confirm, does staff
24 agree that a legitimate project objective is
25 meeting the summer demand of 2001?

1 MS. HOLMES: Right, that's our
2 understanding that it is one of the project
3 objectives. Our concern was that if applicants
4 always defined their project objectives as getting
5 licenses quickly, that could improperly limit the
6 scope of the alternatives analysis.

7 We believe that there is ample evidence
8 in the record to support the Committee's
9 conclusions on alternatives in the revised PMPD,
10 and we are simply recommending that the final
11 decision that the Commission adopt reflect the
12 full record.

13 HEARING OFFICER FAY: Okay, good. I
14 understand. And can you confirm that the staff
15 air quality expert has reviewed the final DOC copy
16 that Mr. Galati introduced today?

17 MS. HOLMES: I believe he has.

18 MR. LOYER: Yes, I have.

19 MS. HOLMES: He's available to state
20 that for himself, if you would prefer to handle it
21 that way.

22 HEARING OFFICER FAY: Okay, why don't we
23 just -- Mr. Loyer is sworn in the case, and we
24 just --

25 MR. LOYER: Joseph Loyer for the Energy

1 Commission Staff. Yes, I have reviewed the copy,
2 the hard copy, as they say.

3 HEARING OFFICER FAY: And have you also
4 reviewed the applicant's comments on the revised
5 PMPD, air quality conditions?

6 MR. LOYER: I have.

7 HEARING OFFICER FAY: And do you find
8 those consistent with the final DOC and with your
9 analysis?

10 MR. LOYER: I support those comments and
11 changes made therein, and I find them very
12 consistent with the DOC.

13 HEARING OFFICER FAY: Okay, good. Thank
14 you very much.

15 All right, does CURE have anything to
16 add at this time, any comments?

17 MS. POOLE: We have no comments on the
18 revised decision.

19 HEARING OFFICER FAY: Okay, thank you.

20 All right, this is all very efficient.
21 Anything further, Mr. Galati?

22 MR. GALATI: No, other than we would
23 like to thank the Committee for expediting this
24 matter. And like to thank staff for working with
25 a tough schedule, including as we thanked them at

1 the last hearing, and we look forward to the 6th.

2 HEARING OFFICER FAY: Good. Time is
3 very tight between now and Wednesday, so there's a
4 chance the Committee won't have the Committee
5 amendments available until that morning. If they
6 are available beforehand we will email them to the
7 parties.

8 I encourage you to review them as much
9 as you can in the time available in case there are
10 some mistakes, disagreements, whatever you want to
11 bring to the full Commission's attention.

12 What we envision is the revised PMPD and
13 the Committee amendments, which will reflect the
14 record as supplemented today.

15 And that will be before the Commission
16 and proposed to them for their consideration.

17 Any further questions?

18 All right, we'll see you all on
19 Wednesday. Thank you.

20 We're adjourned.

21 (Off the record.)

22 HEARING OFFICER FAY: I just want to
23 state for the record that with the acceptance of
24 the evidence today of ownership transfer and the
25 final determination of compliance, the evidentiary

1 record is complete and is now officially closed.

2 We're off the record.

3 (Whereupon, at 10:27 a.m., the hearing
4 was adjourned.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Hearing, nor in any way interested in the outcome of said Hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of December, 2000.

DEBI BAKER

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345