

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION FOR THE
TESLA POWER PROJECT
BY FLORIDA POWER AND LIGHT

DOCKET No. 01-AFC-21
DATA ADEQUATE
JANUARY 9, 2002

**NOTICE OF AVAILABILITY OF THE PRESIDING MEMBER'S PROPOSED DECISION
AND NOTICE OF EVIDENTIARY HEARING
AND NOTICE OF COMMITTEE CONFERENCE**

I. NOTICE OF AVAILABILITY

On February 26, 2004, the Committee issued the Presiding Member's Proposed Decision (PMPD) for the Tesla Power Project. Copies of the PMPD have been sent to the Proof of Service List. The PMPD may also be viewed on the Commission's Internet website at: [www.energy.ca.gov/sitingcases/tesla]. For a printed copy, call the Energy Commission's Publications Unit at 916-654-5200 and ask for publication P800-04-007. **THE PUBLIC COMMENT PERIOD ON THE PMPD ENDS APRIL 9, 2004.**

II. NOTICE OF EVIDENTIARY HEARING

PLEASE TAKE NOTICE that the Committee has scheduled an Evidentiary Hearing to reopen the record and to receive evidence as follows:

THURSDAY, APRIL 8, 2004
Beginning at 11 a.m.
Tracy Community Center
300 East 10th Street
Tracy, California
[Wheelchair Accessible]
Map Attached

The purpose of the evidentiary hearing is to reopen the record for the limited purpose of receiving evidence on the issues specified below and to elicit clarifications of the evidentiary record as indicated in the PMPD.

AIR QUALITY

1. The record states that U.S. EPA withdrew PSD authority from local air districts in December 2002. The parties shall indicate whether this affects their air quality analyses or would change any findings of the FDOC.
2. Staff's Air Quality Table 9 reflects the NAAQS and CAAQS in effect in 2002. If these standards have been modified since that time, the parties shall update Table 9 and correct the calculations of potential violations consistent with the updated standards, specifically regarding particulate matter (PM₁₀ and PM_{2.5}) as indicated in Staff's Air Quality Table 1.
3. Staff refers to Applicant's "Updated Modeling Analysis, docketed 12/5/01;" however, this document has not been identified as an Exhibit. The Applicant shall file this document as an Exhibit.
4. The evidence indicates that maximum daily PM₁₀ impacts in San Joaquin County would be approximately 50% of the overall maximum concentrations due to the TPP. According to the analysis, TPP would cause 24-hour PM₁₀ concentrations to increase by approximately 2.6 µg/m³ at elevated terrain in San Joaquin County approximately 3.5 miles southeast of the site. Maximum annual PM₁₀ TPP impacts in San Joaquin County would be less than 0.2 µg/m³. However, the evidence does not reconcile the finding of maximum impacts west of the site in Alameda County with the finding of impacts at 50% of overall maximum impact east of the site in San Joaquin County. The parties shall explain how the pollutants are dispersed in opposite directions and whether this is based on a seasonal analysis.
5. The parties shall clarify their positions on the use of Landfill road paving ERCs to offset combustion-related emissions. The parties shall also provide information on the timeline for implementing CARB's new PM_{2.5} standard and whether it will ultimately affect use of the Landfill ERCs to mitigate TPP emissions. In addition, the parties shall clarify the regulatory procedure by which TPP can substitute the Crown Zellerbach ERC option for the proposed Landfill ERCs.

6. The record does not directly address Mr. Sarvey's concerns regarding the contribution of ammonia slip to formation of secondary particulate matter. The parties shall provide evidence to establish that the contribution of ammonia slip to secondary particulate matter was included in the analysis and that appropriate mitigation will be provided, if necessary.
7. The evidence shows that PM₁₀ cumulative impacts in San Joaquin Valley (4.3 µg/m³ in the elevated terrain approximately 3.5 miles southeast of the site) exceed those identified in the analysis of TPP's direct impacts (i.e., 2.6 µg/m³ at the same location). Staff, however, did not provide a recommendation on cumulative impacts. The parties shall submit additional evidence on cumulative impacts and specifically address the effects of cooling tower PM₁₀ emissions. If cumulative impacts are significant, the parties shall identify mitigation measures that would reduce those impacts to insignificant levels.

PUBLIC HEALTH

1. Staff's testimony indicates that although the risk assessment is designed to overestimate individual and additive impacts, research on synergistic impacts of exposure to several substances is not well established and there is potential to underestimate synergistic effects. Staff shall clarify this testimony.
2. Staff's analysis of cooling tower emissions was based on use of fresh water from the Aqueduct. Other than TDS, no evidence was presented regarding other constituents in reclaimed water. Staff shall provide testimony on whether the results of its analysis of cooling tower emissions using reclaimed water would be comparable to the analysis based on Aqueduct water.

WATER RESOURCES

1. Applicant shall provide evidence on where TPP will obtain potable water for domestic uses.
2. The record does not indicate whether the City of Tracy will include denitrification in its tertiary treatment process or whether the TPP would install water treatment technology at the site or whether the biocide treatment required by Condition **Public Health-1** would result in sufficient denitrification to ensure effective removal of microorganisms in the cooling tower. The parties shall provide testimony that would resolve this issue.

3. Staff's Appendix Table 7 (from Exhibit 51) was prepared prior to Appendix Table 5A (from Exhibit 54) Staff shall update Appendix Table 7 to reflect the testimony in Exhibit 54 and/or revise the testimony to incorporate accurate cost comparisons.
4. In the dry cooling analysis, Staff's worst-case calculation is based on an efficiency loss of 35 MW at 101°F, which occurs only 30 hours a year, rather than the predicted loss of 7.5 MW at average temperature. Staff shall clarify this discrepancy and recalculate based on peak efficiency loss and average efficiency loss per year.
5. Applicant estimates the capital cost of its proposed cooling tower installation would be about \$18 million. This appears to be a low estimate compared with the cost of the cooling tower installation for a power plant project half the size of the TPP. Applicant shall provide evidence confirming that its cost estimate for the cooling tower is accurate or provide a corrected estimate, if appropriate.
6. Applicant shall provide testimony on the status of negotiations with the City of Tracy for an agreement to supply tertiary treated recycled water to the TPP.
7. Applicant shall provide testimony on the issue of whether the dry cooling alternative described in the record would be an "economically unsound" option for the life of the project compared with the Aqueduct fresh water proposal or the Tracy recycled water alternative.
8. The parties shall submit revised proposed Conditions on power plant cooling to reflect new evidence provided at this evidentiary hearing.

SOCIOECONOMICS

1. The parties shall identify the school district(s) where the TPP site is located and provide testimony on whether the school impact fee required by Condition **SOCIO-1** should be subject to an agreement between Alameda and San Joaquin Counties to ensure that the impact fee is distributed appropriately to the affected school districts.
2. The record fails to address whether the impact of AB 81 on County property tax revenues could affect the anticipated \$6 million per year property tax from the TPP. The parties shall provide evidence of an agreement and/or another method that would insure a minimum property tax payment to Alameda County in the event that the BOE's property assessment for TPP is reduced. (*Cf.* Socioeconomics, Revised PMPD for Morro Bay Power Plant Project, CEC Docket No. 00-AFC-12.)

FIRE PROTECTION

1. Applicant offered \$500,000 to the Alameda County Fire Department (ACFD) for fire protection purposes in eastern Alameda County. The parties shall draft a Condition of Certification requiring the \$500,000 payment to the ACFD for a water tenderer truck and other equipment for use in eastern Alameda and western San Joaquin Counties.
2. The parties shall provide evidence on whether the ACFD will construct a new facility for Station No. 8 on Greenville Road if the East Altamont Energy Center (EAEC) is *not* constructed before the TPP is operational.
3. The parties shall provide evidence on the timeline for completion of the Tracy Fire Department's Station No. 98 on Mascot Road in Tracy.

BIOLOGICAL RESOURCES

1. Staff's Biological Resources Table 3 does not include mitigation acreage for the reclaimed water pipeline or associated water pumps. Staff shall revise this Table accordingly and revise the proposed mitigation, if appropriate.

PROCEDURE

During the evidentiary hearing, all parties (Applicant, Staff, and Intervenors) shall present evidence consisting of declarations or sworn testimony in person, and exhibits for each topic area. The parties must identify their witnesses and submit their testimony in writing prior to the hearing. All witnesses who appear in person shall testify under oath or affirmation and will be subject to cross-examination by other parties.

The parties shall file and serve copies of their prepared written testimony, proposed exhibits, and proposed exhibit lists no later than **3 p.m. Thursday, April 1, 2004**. [The parties shall refer to the Tentative Exhibit List, PMPD Appendix C, which identifies several exhibits that have not been received into the record.] The parties shall also send electronic copies of their written testimony and exhibit lists in MS Word format to the Proof of Service list and to the Hearing Officer via email.

The rules of evidence pertaining to this evidentiary hearing may be found at Sections 1212-1213 of the Commission's regulations. [Cal. Code Regs., tit. 20, §§ 1212, 1213;

see also § 1702 (h)]. The regulations can be viewed on the Commission's Internet website at: [<http://www.energy.ca.gov/siting/title20/tofc.html>].

The Applicant has the burden of presenting sufficient substantial evidence to support the findings and conclusions required for certification of the site and related facilities. [Cal. Code of Regs., tit. 20, § 1748(e)].

At this evidentiary hearing, the Committee will reopen the record to receive testimony and other exhibits submitted since September 18, 2003, correct typographical errors in the official Reporter's Transcript, and require submittal of additional testimony, if necessary, to complete the record. We will also provide time for members of the public to comment on the issues discussed at the evidentiary hearing.

III. NOTICE OF COMMITTEE CONFERENCE ON THE PMPD

PLEASE TAKE FURTHER NOTICE that the Committee will conduct a public Conference to discuss comments on the PMPD following the Evidentiary Hearing at the same location noticed above:

THURSDAY, APRIL 8, 2004
Beginning at 6 p.m.

Public Comments: Members of the public and governmental agencies may submit written comments on the PMPD. Twelve copies of all comments must be received no later than **5 p.m. Friday, April 9, 2004**, by the Energy Commission's Docket Unit, MS-4, 1516 Ninth Street, Sacramento, CA 95814. Identify all comments with "Docket No. 01-AFC-21." Please contact the Energy Commission's Public Adviser as indicated below for information on how to participate.

At the PMPD conference, members of the public will have an opportunity to present comments to the Committee regarding the PMPD. It will not be necessary for participants to repeat comments that they may have offered at the Evidentiary Hearing preceding the PMPD Conference.

Required Comments: Applicant, Staff, and Intervenors intending to participate at the Conference shall file written comments on the PMPD. Specifically, the parties shall provide comments on whether the Conditions of Certification are consistent with the evidentiary record. The parties' comments shall be served and filed no later than

3 p.m., Thursday, April 1, 2004. Comments shall also be sent by email in MS Word format to the parties and to the Hearing Officer.

Information on Public Participation

For information concerning public participation at the Committee Conference and at the Commission hearing, contact the Commission’s Public Adviser, Margret Kim, at 916-654-4489 or, toll free, at 800-822-6228; or e-mail: **[pao@energy.state.ca.us]**.

Media inquiries should be directed to Claudia Chandler at 916-654-4989. If you require special accommodations, contact Lourdes Quiroz at 916-654-5146 at least 5 days prior to the Conference.

Technical questions should be directed to the Commission’s Project Manager, Jack Caswell, at 916-653-0062, or email: **[jcaswell@energy.state.ca.us]**.

Questions of a legal or procedural nature should be addressed to Susan Gefter, the Hearing Officer, at 916-654-3893, or email: **[sgefter@energy.state.ca.us]**.

Schedule for Remainder of Proceedings

- Written Testimony and Exhibits Due April 1, 2004 at 3 p.m.
- Parties’ Comments on PMPD Due April 1, 2004 at 3 p.m.
- Evidentiary Hearing to Reopen Record April 8, 2004 at 11 a.m.
- PMPD Conference April 8, 2004 at 6 p.m.
- Close of PMPD Comment Period April 9, 2004 at 5 p.m.

There will also be a 15-day comment period after publication of the Revised PMPD.

Dated February 26, 2004, at Sacramento, California.

JOHN L. GEESMAN
Commissioner and Presiding Member
Tesla AFC Committee

ARTHUR H. ROSENFELD
Commissioner and Associate Member
Tesla AFC Committee

Mail Lists: POS, 7152, 7153, 7154

