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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division
Electric Generation Performance Branch

San Francisco, California
Date: January 10, 2008
Resolution EGPB-4

RESOLUTION

RESOLUTION GRANTING APPROVAL OF THE FINAL REPORT ON THE AUDIT OF THE OAKLAND POWER PLANT PERFORMED BY THE ELECTRIC GENERATION PERFORMANCE BRANCH OF THE CONSUMER PROTECTION AND SAFETY DIVISION, AND AUTHORIZING PUBLIC DISCLOSURE OF THE FINAL AUDIT REPORT

SUMMARY

This Resolution grants the request of the Consumer Protection and Safety Division ("CPSD" or "staff") for approval of the Electric Generation Performance Branch's (EGPB) Final Report on the Audit of the Oakland Power Plant owned by Dynegy, Inc. ("Oakland" or "the Plant") dated October 31, 2007, ("Final Audit Report"). This Resolution also authorizes disclosure of the redacted Final Audit Report.

BACKGROUND

General Order 167, "Enforcement of Maintenance and Operation Standards for Electric Generating Facilities" (effective September 2, 2005) sets forth maintenance, operation, and logbook standards for electric generating facilities in California (referred to as "Generating Asset Owners" or "GAOs" in the General Order.) General Order 167 was adopted in response to legislation enacted by the California Legislature in 2002, codified in Public Utilities Code 761.3, which requires the Commission to "implement and enforce standards … for the maintenance and operation of facilities for the generation of electric energy" in California. Section 11.1 of General Order 167 notifies GAOs subject

to the General Order that regular and systematic audits will be conducted in order to ensure compliance with General Order 167.[1]

The Oakland audit is the fourth audit conducted by CPSD under General Order 167. CPSD requests Commission approval to issue a final public version of the final audit reports at the conclusion of each of the plant audits, detailing its findings and recommendations. The Oakland Final Audit Report is the result of an iterative process between CPSD staff and Oakland Staff, including the review of data requests, a three day on-site visit by the CPSD audit team, issuance of the Preliminary Audit Report, review and receipt of Oakland's response and Corrective Action Plan, and a meet and confer period. CPSD issues a public version of its final audit reports at the conclusion of each of the plant audits, detailing its findings and recommendations, and requesting Commission approval.

Section 15.4 of General Order 167 allows GAOs to request confidential treatment of information by indicating the specific law or statutory privilege prohibiting disclosure. CPSD's practice is to issue a public version of all final audit reports and request Commission approval by way of a resolution. Oakland has not submitted a request for confidential treatment of the Final Audit Report; however, consistent with CPSD's policy not to disclose sensitive plant security information, CPSD's audit team has redacted specific portions of the audit report which address security issues from the public version of the Final Audit Report.

DISCUSSION

1. Final Audit Report Findings and Recommendations

On December 12, 2005, the CPSD audit team visited the Oakland Power Plant to determine compliance with Logbook, Maintenance and Operations Standards in General Order 167.

During the audit, CPSD's team focused on:

A. Safety training;
B. Balance of maintenance, work management, maintenance procedures and documentation;
C. Spare parts and procurement management;
D. Equipment performance and engineering support;
E. Chemistry control and other regulatory requirements;

[1] See also, D.04-05-018, pp. 15-16; additional detail on audit procedures is found in the "Maintenance Standards for Generators with Suggested Implementation and Enforcement Model, Section 3, Verification and Audit Process," Appendix C to D.04-05-018.

F. Equipment history;
G. Maintenance facilities and equipment;
H. Routine inspection and records of operation;
I. Performance testing and emergency grid operations;
J. Plant security and readiness; and
K. Logbook standards;

The methods used to conduct the audit included:

- Review of plant performance;
- Preparation of detailed data requests;
- A on-site visit from December 12th through 14th, 2005;
- Discussions with plant management;
- Reviews of procedures and records;
- Observations of operations and maintenance activities;
- Interview with rank and file employees; and
- Inspections of equipment and infrastructure.

A full description of the audit, including the procedure, findings, recommendations and conclusions is contained in the Final Audit Report attached as Appendix A to the Final Resolution.[2]

CPSD's Preliminary Audit Report, which was provided to Oakland on October 24, 2006, identified seven potential violations of the Operations and Maintenance Standards. The Plant was asked to respond by November 24, 2006 with a Corrective Action Plan. The plant requested and was granted an extension of this deadline. The plant submitted its response on December 8, 2006. CPSD and Oakland held a teleconference on February 16, 2007 to discuss the plant's response. A 'meet and confer' meeting was held on April 18, 2007 to further discuss the plant's response and corrective actions. In attendance were the CPSD audit team, the Oakland Plant Manager, and the Oakland Production Superintendent.

CPSD is satisfied that the completed and proposed corrective actions implemented by Oakland in response to the audit findings will adequately address the issues raised in the Preliminary Report. A summary table of these findings and corrective actions is found in the Final Audit Report at pp. 5-6. CPSD has not recommended progress reports or notices of completion; however, it may conduct inspections in the future to ensure that the plant's inspection program has

[2] The Public Version of the Draft Resolution does not include Appendix A. Appendix A is attached to the Confidential/Non-Public Version of the Draft Resolution, and will be attached to the Final Resolution if disclosure is authorized and the Final Report approved by the Commission.

sufficiently addressed these findings. In one instance, Finding 2.3, CPSD has requested additional steps to fully resolve the finding. Otherwise, the results of CPSD's audit indicate that the corrective actions adequately address the findings in the Final Audit Report. CPSD finds no need for formal enforcement action based on the audit findings.

We hereby grant CPSD's request for approval of the Final Audit Report. CPSD's General Order 167 audits provide a thorough assessment of the Plant's efforts to comply with General Order 167 Logbook, Operations and Maintenance Standards. Our approval of the Final Audit Report endorses the findings and recommendations in the Final Audit Report, and requires that the Plant resolve and report on one remaining finding by June 30, 2008.

2. Public Disclosure of the Final Audit Report.

As we have indicated above, GO 167, section 15.4, allows GAOs to make a request for confidential treatment of information that it believes should not be disclosed to the public. Section 15.4 places the burden on the GAO to prove why all or part of any document should be withheld from the public, and to indicate the specific law or statutory privilege prohibiting disclosure. This is the fourth of CPSD's audits to come before the Commission; CPSD's policy and practice is to make all of the Final Audit Reports public documents. As we stated in Resolution EGPB-1,

> [I]mportant public interests may well be served by disclosure of General Order 167 audit reports. These include the public's right to know that generating facilities providing the electric service it relies on are operated in conformance with regulatory requirements. In addition, the release of audit reports will increase awareness of safety issues and best practices within the generating community. Allowing public access to audit reports will provide an incentive to GAOs to maintain their plants in top condition, which may lead to increased reliability. Moreover, in enacting Public Utilities Code 761.3, the Legislature found that "electric generating facilities and power plants in California are essential …[to protect] the public health and safety of California residents and business," and that it is in the public interest to ensure that they are "appropriately maintained and efficiently operated."[3]
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> (Resolution EGPB-1, p. 7.)

[3] SB 39XX, Ch. 19, Section 1, approved April 25, 2002; filed April 25, 2002.

We also stated, "Future audit reports conducted under General Order 167 will also be subject to public disclosure, unless it can be demonstrated that under the specific circumstances, the public interest in nondisclosure clearly outweighs the public interest in disclosure." (*Id*.)

Oakland has not requested confidential treatment of the Final Audit Report. However, consistent with CPSD's policy not to disclose sensitive plant security information, CPSD's audit team has redacted specific portions of the audit report which address security issues from the public version of the Final Audit Report. Based on the foregoing, we find that the redacted version of the Final Audit Report should be made public.

COMMENTS

The Draft Resolution of the CPSD in this matter was mailed to the parties in interest on November 19, 2007, in accordance with Public Utilities Code § 311(g)(1) and Rule 14.5 of the Rules of Practice and Procedure. Parties had until December 10, 2007 to file comments. However, there were no comments filed.

FINDINGS OF FACT

1. General Order 167, "Enforcement of Maintenance and Operation Standards for Electric Generating Facilities" (effective September 2, 2005) sets forth maintenance, operation, and logbook standards for electric generating facilities in California. Section 11.1 of General Order 167 notifies GAOs subject to the General Order that regular and systematic audits will be conducted in order to ensure compliance with General Order 167.

2. The Final Audit Report is the result of an iterative process between staff and the plant, including the review of data requests, a three day on-site visit, issuance of the Preliminary Audit Report, review and receipt of the plant's response and Corrective Action Plan, and a meet and confer period.

3. As part of the audit process, the CPSD audit team visited Oakland Power Plant from December 12, 2005 through December 14, 2005, to determine compliance with Logbook, Operations and Maintenance Standards in General Order 167.

4. CPSD routinely requests Commission approval to issue a final public version of the final audit reports at the conclusion of each of the plant audits, detailing its findings and recommendations.

5. Section 15.4 of General Order 167 allows GAOs to request confidential treatment of information by indicating the specific law or statutory privilege prohibiting disclosure; no such confidentiality request was made for the Oakland Final Audit Report.

6. It is CPSD's policy not to disclose detailed or sensitive plant security information.

7. CPSD's General Order 167 audits provide a thorough evaluation of the plant's efforts to comply with General Order 167 Logbook, Operations and Maintenance Standards.

8. The results of CPSD's audit indicate that the continued implementation of the proposed corrective actions will adequately address all of the findings in the Preliminary Audit Report. There is no need for formal enforcement action based on the audit findings at this time.

CONCLUSIONS OF LAW

1. Our approval of the Final Audit Report endorses the findings and recommendations in the Final Audit Report, and requires Oakland to report on one outstanding issue by June 30, 2008.

2. Important public interests may well be served by disclosure of General Order 167 audit reports, including the public's right to know that generating facilities are operated in conformance with regulatory requirements, and the incentives to GAOs to maintain their plants in top condition, which may lead to increased reliability.

3. The redacted Final Audit Report should be made available to the public.

ORDER

1. CPSD's request for disclosure of the "Final Report on the Audit of the Oakland Power Plant," dated October 31, 2007, is granted.

2. Oakland shall resolve and report on the outstanding issue in Finding 2.3 by June 30, 2008.

3. This Resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting held on January 10, 2008. The following Commissioners voting favorably thereon:

/s/ PAUL CLANON

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY A. SIMON
Commissioners

Appendix A to EGPB-4

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