

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division  
Electric Generation Performance Branch

San Francisco, California  
Date: November 21, 2008  
Resolution EGPB-7

**RESOLUTION**

**RESOLUTION GRANTING APPROVAL OF THE  
FINAL REPORT ON THE AUDIT OF THE ALAMITOS  
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 Alamos Power Plant owned by AES (“Alamos” or “the Plant”) dated October 10, 2008, (“Final Audit Report”). This Resolution also authorizes disclosure of the redacted Final Audit Report to the public.

**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.<sup>1</sup>

The Alamitos audit is the seventh audit conducted by CPSD under General Order 167. The Final Audit Report is the result of an iterative process between staff and the Plant, including the examination of plant data, a one-week on-site visit by the CPSD audit team, issuance of the preliminary audit report, review and receipt of the Plant'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.

## **DISCUSSION**

### **1. Final Audit Report Findings and Recommendations**

Starting in October 2005, the CSPD audit team visited Alamitos to determine compliance with maintenance, operation, and logbook standards in General Order 167. The methods used to conduct the audit included:

- Study of plant history and performance;
- Preparation of detailed data requests;
- A site visit from October 31, 2005 through November 4, 2005; including
- Discussions with plant management;
- Examination of procedures and records;
- Observations of operations and maintenance activities;
- Interview with rank and file employees; and
- Inspections of equipment and infrastructure.

The audit focused on adequacy of existing programs and the plant's response to recent equipment failures, such as flooding in the circulating water pits. Among other items, the team looked at the plant's corrosion control and high-energy piping inspection program, plant safety and security, and employee and contractor training and qualifying protocols. A full description of the audit, including the procedures, findings, recommendations and

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<sup>1</sup> 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.

conclusions is contained in the Final Audit Report attached as Appendix A to this Resolution.<sup>2</sup>

CPSD's Preliminary Audit Report, which was provided to Alamitos on February 2, 2007, identified potential violations of the Maintenance and Operation Standards, and directed Alamitos to submit a Corrective Action Plan (CAP) by March 2, 2007. Alamitos requested an extension, and submitted a CAP on March 15, 2007.

This audit required special effort to resolve a number of difficult issues. On April 30, 2007 CPSD sent Alamitos a letter listing deficiencies in the CAP. To resolve the deficiencies, CPSD and Alamitos held a conference call on May 22, 2007, a second on-site visit on June 21, 2007, additional conference calls on October 16, 2007 and November 1, 2007, and a meet and confer session on January 17, 2008.

The Final Audit Report details staff's findings and recommendations from the preliminary audit report, the corrective actions that the Plant has taken to date, and CPSD's recommendations for follow-up action. In six areas, CPSD requested, and the plant agreed, to develop and implement comprehensive programs within six months, and one year respectively. In one additional area, CPSD requests additional information. In the remaining nine instances CPSD accepts the plants proposed corrective actions. CPSD will follow up as necessary on all corrective actions, and after one year will re-evaluate the plant's newly developed comprehensive programs and follow-up actions to determine whether they comply with General Order 167 and whether or not to seek formal enforcement action.

CPSD requests that the Commission order Alamitos to develop and implement comprehensive plans as described in Findings 1, 2, 3, 4, 6, and 11 of the Final Audit Report, and provide the additional information required by Finding 13 of the Final Audit Report. The results of CPSD's audit indicate that the implementation of other proposed corrective actions will adequately address the remaining findings in the Final Audit Report.

We hereby grant CPSD's request for approval of the Final Audit Report. CPSD's General Order 167 audits provide an appropriate assessment of the Plant's efforts to comply with General Order 167's maintenance, operation, and logbook standards. Our approval of the findings and recommendations in the Final Audit Report endorses the findings therein and requires Alamitos to implement the corrective action measures identified in the Final Audit Report and provide progress or status reports as requested by

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

CPSD. If Alamitos fails to take the corrective actions ordered herein, it may be subject to enforcement action.

## **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 seventh 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."<sup>3</sup>

(Resolution EGPB-1, p. 7.)

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.*)

Alamitos has not requested confidential treatment of this Final Audit Report. 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 Final redacted version of the Final Audit Report should be made public.

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<sup>3</sup> SB 39XX, Ch. 19, Section 1, approved April 25, 2002; filed April 25, 2002.

## **COMMENTS**

The Draft Resolution in this matter was mailed to the parties in interest on October 17, 2008 in accordance with Public Utilities Code § 311(g)(1) and Rule 14.5 of the Rules of Practice and Procedure. Parties had until November 6, 2008 to file comments.

On November 5, 2008, Alamos sent a letter to CPSD indicating that it would not be submitting detailed comments.<sup>4</sup> Alamos contends that the Final Audit Report does not reflect the plant's recent and continuing efforts to respond to the audit team's concerns. With this letter, Alamos submitted documentation evidencing the actions taken in response to Findings 1, 2, 3, 4, 11 and 13. Alamos further stated that although it does not agree with all of the observations or conclusions in the Draft Final Report, it would continue to work with CPSD to address the issues identified in the findings. CPSD's audit team has reviewed the materials provided, many of which have already been received, but a few of which are new, however, they do not change the findings or conclusions in the Final Audit Report.

## **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 examination of plant data, a one-week on-site audit, 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 Alamos Power Plant from October 31, 2005 through November 4, 2005 to determine compliance with maintenance, operation, and logbook standards in General Order 167.
4. CPSD routinely issues final and public versions of all audit reports at the conclusion of each of the plant audits, detailing its findings and recommendations, and requesting Commission approval.
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

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<sup>4</sup> Letter from Tony Chavez, Plant Manager, AES Alamos to Mark Ziering, Program Manager, Consumer Protection and Safety Division, dated November 5, 2008.

disclosure. No such confidentiality request was made for the Alamitos 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 an appropriate evaluation of the Plant's efforts to comply with General Order 167's maintenance, operation, and logbook standards.

8. The results of CPSD's audit indicate that the implementation of the proposed corrective and follow-up actions, including but not limited to the development of the comprehensive programs listed above, will adequately address all of the findings in the Preliminary Audit Report.

## **CONCLUSIONS OF LAW**

1. Our approval of the Final Audit Report endorses the findings and recommendations therein, and requires Alamitos to develop and implement comprehensive plans as described in Findings 1, 2, 3, 4, 6, and 11. Alamitos will develop these plans within six months and complete implementation within twelve months, from the date of this resolution. CPSD will re-evaluate the plant's compliance at that time. Within two weeks of the date of this resolution, Alamitos shall provide the additional information required by Finding 13. Alamitos shall implement all other corrective actions listed in the report.

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. The Consumer Protection and Safety Division's request for disclosure of the "Final Report on the Audit of the Alamitos Power Plant," dated October 10, 2008, is granted.

2. Alamitos shall develop and implement comprehensive plans as described in Findings 1, 2, 3, 4, 6, and 11. Alamitos will develop these plans within six months and complete implementation within twelve months, from the date of this resolution. CPSD will re-evaluate the plant's compliance at that time.

3. Alamitos shall provide the documentation requested in Finding 13 within two weeks of the date of this resolution. Alamitos shall implement all other corrective actions listed in the report.

4. If Alamitos fails to take the corrective actions ordered herein, it may be subject to enforcement action.

5. This Resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting held on November 21, 2008. The following Commissioners voting favorably thereon:

/s/ PAUL CLANON

PAUL CLANON  
Executive Director

MICHAEL R. PEEVEY  
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners