

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division Resolution EGPB-10
Electric Generation Performance Branch December 10, 2010

RESOLUTION

Resolution EGPB-10. **PROPOSED OUTCOME:** This Resolution approves the Final Report on the Audit of the Encina Power Plant ("Final Audit Report") performed by the Consumer Protection and Safety Division, authorizes public disclosure of the Final Audit Report, and requires Encina to implement all corrective actions listed in the Final Audit Report. **ESTIMATED COST:** None.

This Resolution is made on the Commission's own motion.

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's) Final Report on the Audit of the Encina Power Plant owned by NRG Energy Inc. ("Encina" or "the Plant") dated December 10, 2010 ("Final Audit Report"). This Resolution also authorizes disclosure of the Final Audit Report to the public, and requires Encina to implement the corrective action measures identified in the Final Audit Report and provide progress or status reports as requested by CPSD.

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 Encina audit is the twelfth 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 August 2008, the CPSD audit team visited Encina 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 August 18 through August 22, 2008; including
 - Discussions with plant management;
 - Examination of procedures and records;

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.

- 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 compliance with standards. A full description of the audit, including the procedures, findings, recommendations and conclusions is contained in the Final Audit Report attached as Appendix A to this Resolution.

CPSD's Preliminary Audit Report, which was provided to Encina on September 15, 2009, identified sixteen violations of Maintenance and Operation Standards, and directed Encina to submit a Corrective Action Plan (CAP) within 30 days. Encina submitted a CAP on October 14, 2009. To resolve outstanding issues, CPSD and Encina held a teleconference on March 15, 2010. In addition, Encina submitted additional information in response to CPSD data request on March 31, 2010.

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. The results of CPSD's audit indicate that implementation of proposed corrective actions will adequately address the sixteen violations in the Preliminary Audit Report.

To address Finding 2.1 in the audit report, which concerns the lack of a formal flow-assisted corrosion program, the plant will develop a Piping Assessment Program to regularly inspect, monitor, and repair, if necessary, any corrosion and erosion damage in its high-energy pipes and systems. The plant will evaluate its April 2010 Pulse Eddy Current inspection results to determine if it needs to repair any corrosion and or erosion damage. The plant will also fully inspect and repair, if necessary, Units 4 and 5 for flow-assisted corrosion damage.

To address outstanding concern on Finding 2.3, the plant will install an Argonite extinguisher system in the plant's administrative building to reduce fire risks.

To address Finding 2.16, which concerns the lack of labeling on critical system components, the plant will label all critical control, isolation, and pressure relief valves. The plant will also label all feedwater system components, which include feedwater heaters.

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 Encina to implement the corrective action measures identified in the Final Audit Report and provide progress or status reports as requested by CPSD. If Encina 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 tenth 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.”²

(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.*)

Encina 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 evaluated and determined that the Final Audit Report contains no information which may compromise plant security. Based on the foregoing, we find that the Final Audit Report should be made public.

NOTICE

On December 10, 2010, the draft resolution was circulated to the Resolution EGPB-10 service list, pursuant to Public Utilities Code § 311(g)(1) and Rule 14.5 of the Commission’s Rules of Practice and Procedure. Interested parties may review the draft resolution and service list on the Commission’s Daily Calendar.

COMMENTS

The Draft Resolution in this matter was mailed to the parties in interest on December 10, 2010 in accordance with Public Utilities Code § 311(g)(1) and Rule 14.5 of the Commission’s Rules of Practice and Procedure. Parties’ comments were due on January 3, 2011.

FINDINGS OF FACT

1. General Order 167, “Enforcement of Maintenance and Operation Standards for Electric Generating Facilities” (effective September 2, 2005)

² SB 39XX, Ch. 19, Section 1, approved April 25, 2002; filed April 25, 2002.

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 Encina Power Plant from August 18 through August 22, 2008 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 disclosure. Encina has not requested confidential treatment of this Final Audit Report.
6. It is CPSD's policy not to disclose detailed or sensitive plant security information. The Final Audit Report does not contain information which may compromise plant security.
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. Encina shall implement all 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 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 Encina Power Plant," dated December 10, 2010, is granted.
2. Encina shall complete all corrective actions listed in the Final Audit Report.
3. If Encina fails to take the corrective actions ordered herein, it may be subject to enforcement action.

This Resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting held on January 13, 2011. The following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Appendix A