

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division Resolution EGPB-9
Electric Generation Performance Branch April 8, 2010

RESOLUTION

Resolution EGPB-9. **PROPOSED OUTCOME:** This Resolution approves the Final Audit Report of the La Paloma Power Plant performed by the Consumer Protection and Safety Division, authorizes public disclosure of the Final Audit Report, and requires the plant to implement all corrective actions listed in the 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) Final Report on the Audit of the La Paloma Power Plant owned by Complete Energy ("La Paloma" or "the Plant") dated January 22, 2010 ("Final Audit Report"). This Resolution also authorizes disclosure of the redacted Final Audit Report to the public, and requires La Paloma 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 La Paloma audit is the ninth 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 November 2007, the CSPD audit team visited La Paloma 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 November 5, 2007 through November 9, 2007; including
- Discussions with plant management;
- Examination of procedures and records;
- Observations of operations and maintenance activities;

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.

- 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, with special attention to problems identified from the plant's operating history. These problems included a misassembled generator, in which loose parts destroyed the generator's copper windings, an overfire which destroyed a gas turbine, and numerous failures of variable inlet guide vanes and sensors. Each of these incidents put the plant out of service, sometimes as long as 65 days.

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.²

CPSD's Preliminary Audit Report, which was provided to La Paloma on June 30, 2008, identified eleven violations³ of the Maintenance and Operation Standards, and directed La Paloma to submit a Corrective Action Plan (CAP) within 30 days. La Paloma requested an extension, and submitted a CAP on August 29, 2008. To resolve outstanding issues, CPSD and La Paloma held conference calls on September 15, 2008 and April 28, 2009. In addition, La Paloma submitted additional information in response to CPSD data requests on January 30, 2008, August 29, 2008, October 24, 2008, December 17, 2008, January 5, 2009 and May 5, 2009. CPSD visited the plant in September 2009 to verify corrective actions.

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

² 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.

³ The term "violation" as used in EGPB's Final Report refers to conditions or events where the auditors determined that the facility failed to meet G.O. 167 standards. Identification of conditions or events as "violations" in this Final Report does not constitute a formal determination by the California Public Utilities Commission of a G.O. 167 violation. A definitive finding of a G.O. 167 violation requires a formal Commission enforcement proceeding.

indicate that implementation of proposed corrective actions will adequately address the eleven findings in the Final Audit Report.

For Finding 1, the plant must comply with General Order 167, and address all issues listed in the Final Audit Report. In particular, the plant must improve response times to plant requests for assistance, obtain easier access to technical advisors on-site, and maintain up-to-date drawings and procedures necessary to operate and maintain the plant. La Paloma recognizes that improvements are desirable, and agrees to brief staff periodically on this issue.

With respect to the remaining findings, La Paloma has taken several corrective actions addressing all other concerns noted in the audit, including, but not limited to, hiring additional staff, updating procedures and drawings, adding items to the computerized maintenance management system and working toward quality improvements and better root-cause analysis.

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 La Paloma to implement the corrective action measures identified in the Final Audit Report and provide progress or status reports as requested by CPSD. If La Paloma 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 ninth 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.”⁴

(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.*)

On February 25, 2010, La Paloma requested confidential treatment of portions this Draft Resolution and Draft 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. Other portions of the Final Audit Report have been redacted to protect commercially sensitive information based upon La Paloma’s application. Based on the foregoing, we find that the Final redacted version of the Final Audit Report should be made public.

COMMENTS

The Draft Resolution in this matter was mailed to the parties in interest on February 2, 2010 in accordance with Public Utilities Code § 311(g)(1) and Rule 14.5 of the Rules of Practice and Procedure. Parties’ comments were due on February 25, 2010. La Paloma submitted timely comments.

⁴ SB 39XX, Ch. 19, Section 1, approved April 25, 2002; filed April 25, 2002.

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 La Paloma Power Plant from November 5, 2007 through November 9, 2007 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. La Paloma requested confidentiality for portions of the Draft Resolution and the La Paloma 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, 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. La Paloma 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 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 La Paloma Power Plant," dated January 22, 2010, is granted.
2. La Paloma shall complete all corrective actions listed in the Final Audit Report.

3. If La Paloma 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 April 8, 2010. The following Commissioners voting favorably thereon:

/s/ PAUL CLANON

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

APPENDIX A