

**BEFORE THE CALIFORNIA ELECTRICITY GENERATION FACILITIES  
STANDARDS COMMITTEE**

Related Case: California Public Utilities Commission Rulemaking 02-11-039

**COMMENTS OF EL SEGUNDO POWER LLC, LONG  
BEACH GENERATION LLC, CABRILLO POWER I LLC,  
AND CABRILLO POWER II LLC (COLLECTIVELY, WEST  
COAST POWER) ON THE PROPOSED GENERATION  
FACILITY LOGBOOK REQUIREMENTS**

February 24, 2003

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Pursuant to the direction of the California Electricity Generation Facilities Committee (“Committee”), issued at the Committee meeting on February 3, 2003, El Segundo Power LLC, Long Beach Generation LLC, Cabrillo Power I LLC, and Cabrillo Power II LLC (collectively, West Coast Power (“WCP”)) again come before the Committee to offer their comments on the Committee’s proposals. As part of WCP’s continuing effort to work cooperatively with the Committee, WCP submits the following

comments on the proposed Generation Facility Logbook Requirements.<sup>1</sup>

Rather than address in detail the individual provisions of the proposed logbook requirements (as it did in its comments on the Committee's proposed maintenance standards), WCP will offer some general observations that the Committee may find useful as it revises the proposed logbook requirements in response to these and other parties' comments.

**I. THE COMMITTEE SHOULD RECONSIDER THE BASIS FOR ITS AUTHORITY TO IMPOSE LOGBOOK REQUIREMENTS**

At the outset, WCP respectfully suggests that it is far from clear that Senate Bill ("SB") 39XX,<sup>2</sup> the legislation that created the Committee and authorized it to take certain specified actions, provides a legal basis for the Committee to impose logbook requirements on non-utility generators. The Committee and its responsibilities are addressed in Public Utilities Code section 761.3(b), as added by SB 39XX. The specific responsibility that the Legislature delegated to the Committee is to adopt and thereafter

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<sup>1</sup> By voluntarily submitting these comments, West Coast Power is not in any way conceding that the Committee or the California Public Utilities Commission ("CPUC") has jurisdiction over, or can lawfully compel a response to the Committee's process or CPUC's rulemaking by, WCP, the four named limited liability corporations, their affiliates, or the generating plants that they own and operate. WCP expressly reserves the right to challenge fully, in an appropriate forum, the relevant portions of SB 39XX and any requirement the Committee or the CPUC may attempt to impose on WCP, the four named LLCs, their affiliates, or other wholesale generators. Nothing in these comments constitutes a waiver of such rights, including these entities' rights to seek relief in federal court for violations of federal law or the United States Constitution. WCP makes this express reservation pursuant to the provisions of *England v. Louisiana State Bd. of Medical Examiners*, 375 U.S. 411, 420 (1984); see *United Parcel Service v. California Public Utilities Comm'n*, 77 F.3d 1178, 1182 (9th Cir. 1996). Furthermore, WCP and the four LLCs do not consider themselves to be respondents in the CPUC's rulemaking, because they are not "public utilities" as defined in the Public Utilities Code.

<sup>2</sup> Stats. 2002 (2d. extraordinary sess.) ch. 19.

revise “standards for the maintenance and operation of facilities for the generation of electric energy located in the state.”<sup>3</sup>

The Committee has already considered maintenance standards and has set a schedule for the consideration of operations standards; thus, the Committee has addressed the two prongs of the specific responsibility set forth in the statute—the adoption of standards for the maintenance and operation of at least some of the generation facilities located in this state. But the Committee now appears to go beyond its statutory authorization to consider a third set of requirements not mentioned in the statute—logbook requirements.

It appears to WCP that by venturing into a third area of requirements, the Committee is purporting to act in areas beyond its statutory authorization. Since the Committee’s only source of authority is the delegation by the Legislature as expressed in section 761.3, by going beyond the bounds of the statute, the Committee is attempting extra-legal action, not grounded in any lawful basis.

WCP accordingly urges the Committee to reconsider the legal authority for its proposed logbook requirements. These requirements are not mentioned in or authorized by the statute that creates the Committee and delineates its authority, and the Committee cannot derive its authority from any other source.

## **II. COMMENTS ON THE PROPOSED LOGBOOK REQUIREMENTS**

Despite its reservations about the Committee’s authority to impose logbook requirements, and consistent with its efforts to cooperate with the Committee in the

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<sup>3</sup> Pub. Util. Code § 761.3(b)(1).

development of maintenance and operation standards, WCP offers the following comments on the proposed logbook standards.

The Committee has yet to explain why it believes the logbook requirements are necessary, or what it hopes to accomplish by imposing these requirements. It would be helpful to both the parties and to the Committee itself if it articulated the purpose it is pursuing by promulgating these requirements. In the absence of an articulation of the purpose of these requirements, WCP can only conclude that the proposed logbook requirements are extraordinarily and unnecessarily detailed and prescriptive, and ultimately counterproductive. In considering revisions to the proposed requirements, the Committee should keep the following points in mind.

First, WCP, like other operators of generating plants, already maintains logbooks as part of its prudent operation of its plants. WCP has made its logbooks available to the ISO and the CPUC inspectors, and to WCP's knowledge, the representatives of the ISO and CPUC have not found the existing logbooks to be inadequate for their purposes. Before imposing a new and unnecessarily detailed set of requirements, the Committee should consider whether the existing logbooks are adequate for its purposes.

Second, the items that must be recorded pursuant to the requirements are far more detailed and numerous than under the "prudent utility practices" of the previous owners of WCP's plants. It is unclear to WCP why the practices of the previous owners were insufficient for the Committee's purposes.

Third, the requirements make the erroneous and unsupported assumption

that all control room operators have access to a computer to record the many data points that the requirements demand. In older plants, in particular, it has not been necessary before now to equip the control rooms with logbook computers, because the plants were designed to be operated without the aid of computers. In these plants, logbooks are maintained manually, a task that will become nearly impossible if the detailed proposed requirements are adopted.

Fourth, the requirements will interfere with the key responsibilities of the control room operator and shift supervisor—making sure that the plant is available when needed to serve customers to the maximum possible extent. When a generating plant experiences an outage, especially an unplanned outage, the control room operator and shift supervisors should be free to take all necessary steps to get the plant on line, and they should not be chained to the logbook because of the Committee's requirements. By diverting the attention of the control room operator and the shift supervisor from their primary responsibilities during the times when their undivided attention is most needed, the proposed logbook requirements run directly counter to the goals of SB 39XX.

Fifth, the logbook requirements call for the maintenance of a total of four different logbooks. The proposal requires both (1) electronic and (2) paper copies of separate logbooks maintained by (3) the shift supervisor and (4) the control room operator. This duplication serves no useful purpose, especially for plants that do not have logbook computers in the control rooms (requiring the transcription of hand-written logbooks to electronic form).

Sixth, the requirement to maintain the logbooks for ten years is burdensome

for no good purpose. The Internal Revenue Service requires taxpayers to retain records for only seven years, and there is no reason to impose even that long of a retention period for these logbooks. What circumstances would require an ability to examine logbooks even five years after the event? If there are problems with the plant or the electric system that require examination of logbooks, WCP suspects that the need to look at the logbooks would reveal itself within a year or two of the event in question.

In summary, when considering the logbook requirements, the Committee should ask itself what role it wants the shift supervisor and the control room operator to perform: Should they be focused on the effective and appropriate maintenance and efficient operation of the plant,<sup>4</sup> with particularly emphasis on getting the plant back on line when there is a planned or unplanned outage? Or should they be reduced to passive recording secretaries, compelled to maintain “an accurate and concise record of important and/or unusual events involving . . . safety, accidents to personnel, fires,” “detailed account[s] of unit trips,” and “report[s] of any industrial accident including all details of the incident and the names of all parties involved,” rather than acting to respond quickly and appropriately to these important and unusual events?

To WCP, the answer to that question is obvious: the shift supervisor and control room operator should be free to do their jobs of ensuring that the plant is maintained and operated in a way that ensures, to the maximum extent possible, that the plant will be available when it is needed to serve the demands of electric consumers. In

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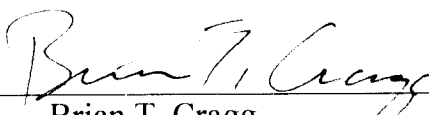
<sup>4</sup> See SB 39XX, § 1(b).

their current form, the proposed logbook requirements will interfere with that essential task because the requirements are excessively and unnecessarily detailed and prescriptive.

WCP therefore recommends that the Committee first examine whether the existing logbooks maintained by plant operators are sufficient to meet its purposes, before imposing the proposed logbook requirements. If the Committee concludes that new logbook requirements are necessary (and are within its statutory authority to impose), it should simplify the requirements and modify them as suggested in these comments so that the adopted logbook requirements do not interfere with the ability of the shift supervisor and the control room operator to do their jobs and to keep the plant available to meet customer demand when called on.

Respectfully submitted this February 24, 2003 at San Francisco, California.

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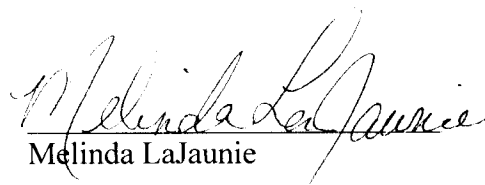


**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the **COMMENTS OF EL SEGUNDO POWER LLC, LONG BEACH GENERATION LLC, CABRILLO POWER I LLC, AND CABRILLO POWER II LLC (COLLECTIVELY, WEST COAST POWER) ON THE PROPOSED GENERATION FACILITY LOGBOOK REQUIREMENTS; R.02-11-039** to all parties on the service list served via e-mail only.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24<sup>th</sup> day of February 2003 at San Francisco, California.

  
Melinda LaJaunie