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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:) Docket No. 07-AFC-6
)
) COMMENTS ON PMPD
)
)
Carlsbad Energy Center Project)

Natural Gas Pipeline Safety and Reliability

The Committee has not conducted sufficient evidentiary hearings or otherwise solicited sufficient evidence of pipeline safety and reliability. Specifically, the PMPD was prepared without the benefit of any testimony from Southern California Gas Company (“SoCal Gas”) addressing the safety and reliability of the new natural gas pipeline, the interconnection to the existing SoCal Gas pipeline, or the existing SoCal Gas pipeline. The Committee did not even require evidence from experts addressing pipeline safety or reliability in general. The Committee does not have sufficient information to concludes that “The CEC’s fuel supply will be provided via a new gas pipeline interconnection to the existing SoCalGas pipeline system and will likely be reliable” (PMPD, Power Plant Reliability, page 5) or “The evidence shows that, while natural gas poses some risk of both fire and explosion, this risk can be reduced to insignificant levels through adherence to applicable codes and the development and implementation of effective safety management practices” (PMPD, Hazardous Materials, page 2.)

The commission must address natural gas pipeline safety in fulfilling its duties to conduct application proceedings in compliance with the Public Resources Code and CEC regulations. “The purpose of an application proceeding is to ensure that any sites and related

facilities certified provide a reliable supply of electrical energy at a level consistent with the need for such energy, and in a manner consistent with public health and safety, promotion of the general welfare, and protection of environmental quality.” 20 C.C.R. § 1741. To this end, in evaluating applications for certification, the Commission is tasked with considering potential environmental effects (Pub. Res. Code 25523 ; 20 C.C.R. 1742) safety and reliability (Pub. Res. Code 25511; 20 C.C.R. 1743) and compliance with applicable law (20 C.C.R. 1744). This requires the Commission compile the necessary evidence by requesting and securing such information as is relevant and necessary in carrying out the purposes of the proceeding and issuing subpoenas and subpoenas duces tecum on its own authority or upon application of any party. 20 C.C.R. 1203.

At the March 9, 2011 CEC Business Meeting, Chairman Weisenmiller directed staff to include consideration of pipeline safety and reliability issues in their review of current and future siting cases. As Chairman Weisenmiller has himself confirmed, this proceeding requires inquiry into the pipeline safety, reliability, effect on the environment, and compliance with applicable law. The Committee has been remiss in its duties in failing to conduct a full analysis of these issues. In the April 12, 2011 Oakley Generating Station Presiding Members Proposed Decision, Vice Chair James D. Boyd wrote:

However, in light of recent publicly noticed events pertaining to the PG&E gas transmission line rupture and fire in San Bruno, California on September 9, 2010, the Energy Commission determined on March 9, 2011, that pending and future AFC proceedings must include an enhanced assessment of natural gas pipeline supply/availability and safety that specifically addresses and known or anticipated risks of project interconnection with existing natural gas pipelines. The OGS AFC Committee subsequently directed the parties in this proceeding to address seven questions pertaining to PG&E lines 303 and 400 and the project’s interconnection to these lines.”

Oakley Generating Station Presiding Members Proposed Decision, Section E Hazardous Materials, page 11.

This Committee should likewise direct the applicant to address these pertinent issues.

The Committee Violated Procedural and Due Process Requirements in Holding the Evidentiary Hearing and Issuing the PMPD

The Committee did not provide fair and reasonable notice of the May 19, 2011 evidentiary hearing. While the notice was provided within the bare minimum of ten days, the parties were given only six business days to prepare and serve “1) a list of the witnesses they intend to call, 2) time estimates for direct and cross-examination, and 3) electronic copies of any documents they wish to introduce into evidence, including documents they have previously circulated or docketed” for five separate, highly-complex issues. This is clearly not the required “notice to the parties as appears fair and reasonable under the circumstances.” 20 C.C.R. § 1727. Mr. Simpson was unable to meet this onerous deadline and so, was deprived of his right to participate in the evidentiary hearings as an Intervenor. The evidentiary hearings need to be reopened and the parties given reasonable notice to preserve the parties due process rights.

The PMPD was prepared in violation of 20 C.C.R. § 1751 “The presiding member's proposed decision shall be based exclusively upon the hearing record, including the evidentiary record, of the proceedings on the application.” The PMPD cannot possibly be based on the hearing record as it was prepared before and noticed concurrently with the the May 19th, 2011 evidentiary hearings. The PMPD must be redrafted to include the evidentiary hearings.

DATED: June 8, 2011.

Respectfully,

By: April Rose Sommer
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