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September 1, 2009

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**VIA HAND DELIVERY & EMAIL**

The Honorable James D. Boyd  
The Honorable Karen Douglas  
Siting Project Committee  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814

<b>DOCKET</b>	
<b>07-AFC-6</b>	
DATE	<u>09/01/2009</u>
RECD.	<u>09/01/2009</u>

**Re: Carlsbad Energy Center Project (07-AFC-6)  
Status Report - September 2009**

Dear Commissioners:

The Committee's May 11, 2009 Revised Scheduling Order requires all parties to continue to submit Status Reports "every six weeks...until [the Final Staff Assessment has been] filed." To that end, Carlsbad Energy Center LLC ("Applicant") submits this Status Report for the Carlsbad Energy Center Project (the "Project").

**STATUS SUMMARY**

On August 4, 2009 the San Diego Air Pollution Control District's ("SDAPCD") published the Project's Final Determination of Compliance ("FDOC"). On August 7, 2009, Applicant sent notice of the FDOC to nearly 7,400 Carlsbad residents. The FDOC was a primary document needed for California Energy Commission ("CEC") Staff to issue its Final Staff Assessment ("FSA"). Therefore, Applicant anticipates Staff will publish the FSA by mid-September.

**CURRENT ISSUES AND ACTIVITIES**

***Final Staff Assessment & Upcoming Evidentiary Hearings***

As noted above, Applicant looks forward to Staff's publication of the FSA in mid-September. All parties will be able to present information, evidence, and comments to the Committee during the evidentiary hearing phase of this proceeding. Applicant welcomes further direction from the Committee regarding evidentiary hearing deadlines and scheduling after publication of the FSA.



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***Power of Vision's Data Request and Petition to Compel Response***

As reported in Applicant's July 2009 Status Report, on June 1, 2009, Applicant was served with a data request from intervenor Power of Vision ("POV"). POV requested that "original documents wherein the applicant records hourly data on Encina Power Station units 1 – 5... be made available for inspection and possible copying..." Pursuant to Title 20 California Code of Regulations, section 1716, Applicant timely objected to POV's data request and in that same correspondence provided explanation and clarification of certain emissions data related to operations of the Encina Power Station.

On June 29, 2009, after receipt of Applicant's objection and response to POV's data request, POV filed a Petition to Compel Response ("Petition") seeking to compel Applicant to provide the information POV sought in its May 27, 2009 data request. On July 14, 2009, Applicant filed an Opposition to POV's petition ("Opposition"), challenging POV's Petition on various grounds, including, but not limited to, the untimeliness of the request, lack of good cause for the request, as well as the fact that the request is outside the scope of this proceeding and that the request is unduly burdensome.

To date, this item remains unresolved. Applicant believes, however, the issues presented by POV can be resolved during the upcoming evidentiary hearings. Applicant awaits further direction from the Committee regarding this matter.

***Petition to Intervene by the City of Carlsbad Redevelopment Agency***

On August 5, 2009, the City of Carlsbad (the "City") submitted a Petition to Intervene ("Petition") on behalf of the South Carlsbad Redevelopment Agency ("Agency"). On August 12, 2009, CEC Staff submitted its response to the City's Petition recommending rejection of the City's Petition and explaining that the Agency's interests have been amply represented by the City throughout the CECP process. Accordingly, Applicant filed a similar response on August 19, 2009 expressing its concerns that adding the Agency as a separate party to the CECP proceeding at this late date could add unnecessary layers of duplicative and burdensome comments and examination during evidentiary hearings. As of this Status Report, the parties await a decision on the Agency's Petition.

***Additional Air Quality Emissions Data Provided***

On August 24, 2009, Applicant provided the Environmental Protection Agency Region IX ("EPA") with additional annual air emissions data for the Encina Power Plant from 1997 through 2008. This annual emissions summary was requested by EPA as part of EPA's Prevention of Significant Deterioration applicability analysis for the proposed CECP. Applicant subsequently docketed and served this information on all parties.



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**CONCLUSION**

As always, Applicant is committed to providing, to the extent feasible, information that may assist CEC Staff with moving toward the publication of the FSA. Applicant looks forward to the forthcoming evidentiary hearing schedule.

Respectfully submitted,

John A. McKinsey

JAM:kjh

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APPLICATION FOR CERTIFICATION  
FOR THE CARLSBAD ENERGY  
CENTER PROJECT

Docket No. 07-AFC-6  
PROOF OF SERVICE  
(Revised 7/07/2009)

**Carlsbad Energy Center LLC's  
Status Report – September 2009**

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**DECLARATION OF SERVICE**

I, Elizabeth Hecox, declare that on September 1, 2009, I deposited copies of the aforementioned document in the United States mail at 980 Ninth Street, Suite 1900, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

**OR**

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, Title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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

  
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Elizabeth Hecox