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October 12, 2009

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VIA HAND DELIVERY AND US MAIL

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

DOCKET
07-AFC-6

DATE OCT 12 2009

RECD. OCT 12 2009

**Re: Carlsbad Energy Center Project (07-AFC-6)
Status Report October 12, 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").

CURRENT ISSUES AND ACTIVITIES

Final Staff Assessment & Upcoming Evidentiary Hearings

As noted above, Applicant looks forward to Staff's publication of the Final Staff Assessment ("FSA"). 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.

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

As reported in Applicant's September 2009 Status Report, Power of Vision ("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. Applicant, subsequently, filed an Opposition to POV's petition, which challenged POV's Petition on various grounds. On September 15, 2009, the Committee issued its Ruling on Intervenor Power of Vision's Petition to Compel Data Responses, granting, in part, POV's Petition. Specifically, the Committee ordered



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Applicant to provide “electronically generated data from the CEMS for Units 1 through 3 for 2003 through 2008.” Pursuant to the Committee’s Ruling, Applicant provided a CD-Rom containing electronically generated CEMS data to POV and served the same on the CECP AFC service list on October 8, 2009.

On September 25, 2009, POV provided correspondence to the Committee entitled “Further Petition to Compel Responses,” seeking the Committee change its September 15, 2009 Ruling to require Applicant to provide POV with CEMS data for 2002 and 2003 that is not electronically available. On October 12, 2009, Applicant timely responded to POV’s Further Petition to Compel Responses.

San Diego Air Pollution Control District – Appeal of Final Determination of Compliance

On October 9, 2009, the Hearing Board for the San Diego Air Pollution Control District (“District”) heard an appeal filed by Robert Simpson regarding the District’s Final Determination of Compliance (“FDOC”) for CECP. The Hearing Board dismissed Simpson’s appeal for lack of jurisdiction on two bases: (1) in its issuance of the FDOC as part of the CEC process, the District did not issue an appealable “permit” within the meaning of District Rule 25; and (2) the FDOC was not a final action by the District that was ripe for appeal, since CEC or the District could revise the conditions presented in the FDOC during the CEC’s FSA and/or evidentiary hearing phases.

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 September 15, 2009, the Committee granted the Agency’s Petition with limitations related to evidentiary hearings and requiring the Petitioner to “consolidate its presentation of evidence and examination and cross-examination of witnesses with the City.”



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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,

Melissa A. Foster

MAF:kjh

cc: See Attached Proof of Service

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 9/24/2009)

Carlsbad Energy Center LLC's
Status Report October 12, 2009

CALIFORNIA ENERGY COMMISSION

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DECLARATION OF SERVICE

I, Elizabeth Hecox, declare that on October 12, 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.



Elizabeth Hecox