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June 3, 2011

DOCKET
07-AFC-6
DATE JUN 03 2011
RECD. JUN 03 2011

**VIA EMAIL AND HAND DELIVERY**

The Honorable James D. Boyd
Hearing Officer Paul Kramer
1516 Ninth Street
Sacramento, CA 95814

**Re: Carlsbad Energy Center Project (07-AFC-6)**
**Proposed Conditions of Certification Related to the Shutdown of Units 4 and 5 at the Encina Generating Station**

Dear Commissioner Boyd and Hearing Officer Kramer:

During the May 19 and 20, 2011 Committee Conference and Evidentiary Hearing ("Hearing"), the Committee requested Applicant Carlsbad Energy Center LLC and intervenors, the City of Carlsbad and the Carlsbad Redevelopment Agency (collectively, the "City"), to attempt to resolve certain outstanding issues related to the permitting of the Carlsbad Energy Center Project ("CECP"). Specifically, the Committee requested the parties propose, either jointly or separately, a condition of certification related to the future, permanent shutdown of the Encina Generating Station's Units 4 and 5.

After consulting with City Staff, Applicant believes it has found Land Use condition language regarding the retirement and removal of Units 4 and 5 that the City will support. The following language for conditions of certification LAND-2 and LAND-3 was agreed to by both the City and the Applicant. Each party believes these particular conditions of certification achieve the directive of the Committee to propose a condition or conditions that lead to the eventual permanent shutdown of Units 4 and 5, while also ensuring the parameters of the conditions envelop each party's specific concerns and requirements.

**Proposed Conditions of Certification, LAND-2 and LAND-3**

**LAND-2** On or before January 1, 2016, the project owner shall prepare and submit a Demolition, Removal, and Remediation Plan (DRRP) to the CPM, the City of Carlsbad, and the Carlsbad Redevelopment Agency. The DRRP shall propose the process, schedule, and legal requirements for the

demolition, removal, and remediation of the Encina Power Station (Units 1 through 5), associated structures, the black start unit and the exhaust stack. As part of completion of the DRRP, project owner shall consult with the California Energy Commission, the California Coastal Commission, the City of Carlsbad, the Carlsbad Redevelopment Agency, the San Diego Regional Water Quality Control Board, the San Diego Air Pollution Control Board, and the California Independent System Operator to ensure the DRRP best reflects the procedural and substantive requirements that will apply to the site.

On or before January 1, 2017, project owner shall prepare and submit to the CPM, the City of Carlsbad, and the Carlsbad Redevelopment Agency, a study of the estimated costs associated with implementing the DRRP.

Project owner shall demonstrate, to the CPM's satisfaction, fiscal capability to implement the DRRP prior to commencement of demolition activities. Such demonstration could be accomplished by submittal of a financial plan, deposit of funds into a dedicated account, or any combination thereof.

Concurrent with submittal of the DRRP, or by a date mutually agreed to by project owner and the Carlsbad Redevelopment Agency, project owner shall initiate the process with the Carlsbad Redevelopment Agency for redeveloping the existing Encina Power Station area of the project by submitting a redevelopment application.

**Verification:** On or before January 1, 2016, project owner shall provide the DRRP to the CPM for review and approval and to the City of Carlsbad, the Carlsbad Redevelopment Agency, and the California Coastal Commission for review and comment. The City of Carlsbad and the Carlsbad Redevelopment Agency shall provide comments on the DRRP to the CPM and project owner within 60 days or a date mutually agreeable to project owner and the City of Carlsbad and the Carlsbad Redevelopment Agency.

On or before January 1, 2016, project owner shall submit to the CPM evidence that the redevelopment process with the Carlsbad Redevelopment Agency for redeveloping the Encina Power Station site has begun or shall submit to the CPM evidence of a later

mutually agreed upon date by project owner and the Carlsbad Redevelopment Agency to begin the redevelopment process.

On or before January 1, 2017, project owner shall submit the results of the study on estimated costs of implementing the DRRP to CPM for review and approval and to the City of Carlsbad and the Carlsbad Redevelopment Agency for review and comment. The City of Carlsbad and the Carlsbad Redevelopment Agency shall provide comments on cost estimate to the CPM and project owner within 60 days or a date mutually agreeable to the project owner and the City of Carlsbad and the Carlsbad Redevelopment Agency.

**LAND-3** On or before July 1, 2016, project owner shall submit applications for required permits and approvals for demolition, removal, and remediation of the Encina Power Station (Units 1 through 5), associated structures, the black start unit and the exhaust stack.

Upon the commencement of commissioning activities of the project, project owner shall request permission from the California Public Utilities Commission (CPUC) to permanently shutdown Units 1 through 5 at the Encina Power Station and the black start unit.

Within six months following the shutdown of Units 1 through 5 at Encina Power Station and the black start unit pursuant to the above CPUC approval, and in compliance with all permits and approvals necessary to perform such activities, project owner shall commence demolition, removal, and remediation of the Encina Power Station (Units 1 through 5), all associated structures, the black start unit and the exhaust stack

**Verification:** Project owner shall provide evidence to the CPM, not later than September 1, 2016, of the submittal of permit and approval applications to required agencies for the demolition, removal and remediation.

Within six months following approval by the CPUC, project owner shall demonstrate to the satisfaction of the CPM that it has shut down Units 1 through 5 of Encina Power Station and the black start unit, and commenced the demolition, removal, and remediation. Concurrent with such demonstration, project owner shall also demonstrate

compliance with any fiscal capability funding requirements related to the CPM's approval of the financial plan for demolition, removal and remediation in LAND-2.

Within 36 months of the start of demolition, removal, and remediation, the project owner or its parent company shall demonstrate to the satisfaction of CPM that demolition and removal of the Encina Power Station Units 1 through 5, all associated structures, the black start unit and the exhaust stack and remediation of the site is complete.

In conclusion, Applicant believes the proposed conditions LAND-2 and LAND-3 will help to facilitate final resolution regarding the future of Units 4 and 5. Moreover, these conditions will ensure a promise by the Applicant to continue its desire to work closely with the City to redevelop the area west of the tracks in a manner consistent with the City's and its constituents' vision for such future development.

Applicant respectfully requests that the Committee move forward and present an errata to the Presiding Member's Proposed Decision ("PMPD") that includes the proposed conditions LAND-2 and LAND-3 and present the PMPD to the full Commission for final approval at the June 15, 2011 Commission Business Meeting.

Respectfully submitted,

for John A. McKinsey

JAM:jmw
Enclosure
cc: Proof of Service List

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| APPLICATION FOR CERTIFICATION FOR THE CARLSBAD ENERGY CENTER PROJECT | Docket No. 07-AFC-6<br>PROOF OF SERVICE<br>(Revised 5/18/2011) |
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**Carlsbad Energy Center LLC**
**Applicant's Proposed Conditions of Certification Related to the Shutdown of Units 4 and 5 at the Encina Generating Station**

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## DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on June 3, 2011, I deposited copies of the aforementioned document in the United States mail at 500 Capitol Mall, Suite 1600, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

## AND/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.

Judith M. Warmuth