07-AFC-6

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June 10, 2011

DOCKET
07-AFC-6
DATE JUN 10 2011
RECD. JUN 13 2011

James D. Boyd
California Energy Commission
1516 Ninth Street, MS-34
Sacramento, CA 95814

Dear Commissioner Boyd:

As was expressed by the City of Carlsbad Mayor and Council Members at the hearing on the Proposed Decision, citizens of our community, the City Council, and I are very disappointed in the Proposed Decision regarding the CECP. We believe the highest and best use of this land in the coastal zone of our City is not to continue the industrial uses that have been there for the last 60 years but to turn the land into a resource so that the citizens of Carlsbad and the state can enjoy their limited and priceless coastal resource. Instead, as the existing Encina Power Station approaches the end of its useful life, the Committee is poised to gift the community with a new power plant that will last at least another 30 years.

The City understands the importance of electricity to our society and is not opposed to a new power plant within its jurisdiction. In that spirit, the City's Redevelopment Agency tried to work with the applicant prior to their filing their AFC to develop a smaller, more efficient power plant and the City identified alternative sites within city limits. As Agency staff testified, they had been led to believe by the applicant that a smaller plant would be constructed on the site within an office building type structure. However, instead of replacing the Encina Power Station with a smaller facility located in an office building type structure, the Committee recommends substituting the existing 321 megawatts of Encina Units 1-3 for a large, 135-foot high, 558 megawatt, industrial structure. As City staff testified, the alternative sites were acceptable to the City and a developer even submitted an alternative project on one of the sites to SDG&E during their energy procurement process.

During this proceeding the City was accused by the Commission staff as being biased against the project and by the Committee as having a land use process that is "complex" and a "policy and regulatory puzzle." Complexity is not a reason to re-interpret local land use regulations.

In reaching its Proposed Decision, the Committee has either ignored or incorrectly interpreted the City' land use regulation and several potential other state and local requirements. Some of the most important are:

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1. The California Coastal Act (Public Resources Code Section 30101) requires that an industrial facility can be located within the coastal zone only if it is "coastal dependent." The Act defines a "'coastal-dependent development or use' means any development or use which requires a site on, or adjacent to, the sea to be able to function at all". Rather than using this clear understanding of the law, the Committee relied on back-door legal approach that is discussed in our filed comments.

2. The California Fire Code Section 503.2.2 states "The *fire code official* shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations." Rather than incorporating the Carlsbad Fire Chief's access requirements into its decision, the Committee choose to ignore section 503.2.2 and deferred to the CEC staff that has had no experience fighting fires and has no direct responsibility for the safety of the City's fire personnel or its citizens. Our Fire Chief's fire access requirements are fully supported by lessons learned from the recent Palomar plant fire and by the Escondido Fire Chief following that fire. The Commission may be able to override the Fire Chief's requirements but you cannot legally ignore them. At the hearing on the Proposed Decision, the Fire Chief asked that if the Commission approves the project without the access roads that you specify the reason for overriding his requirements.

3. The South Carlsbad Coastal Redevelopment Area Redevelopment Plan requires development within the area to have an "extraordinary public benefit". As discussed in our filed comments, the CECP clearly does not comply with this local legal requirement. The Committee urged the parties to come to an agreement on the process for the removal and remediation of the entire Encina power plant. Although the City and Redevelopment Agency did this, the Redevelopment Agency does not believe that these conditions satisfy the high standard for constructing new industrial facilities in this coastal location.

4. Given that the CECP is a controversial gas-fired project to be located in the California Coastal Zone with significant fire safety issues, the City believes that the "no project" alternative should be adopted by the Commission. This plant is not needed. On the day of the PMPD hearing, SDG&E submitted a filing[1] and sworn testimony[2] to the California Public Utilities Commission seeking approval of three power purchase agreements for a

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[1] Application Of San Diego Gas & Electric Company (U 902 E) For Authority To Enter Into Purchase Power Tolling Agreements With Escondido Energy Center, Pio Pico Energy Center And Quail Brush Power

[2] Prepared Direct Testimony Of San Diego Gas & Electric Company In Support Of Application For Authority To Enter Into Purchase Power Agreements With Escondido Energy Center, Pio Pico Energy Center And Quail Brush Power

total of 450 megawatts located in the San Diego load area[3]. As SDG&E testifies in these filings:

> "...with the resources additions that are proposed in this Application, the SDG&E load pocket will have sufficient resources to meet total local RA (resource adequacy) needs for all customers. It also shows that sufficient resources would exist to allow for the full retirement of the Encina Power Plant prior to the end of 2017, the date at which it would need to meet the State's new OTC policy." (Prepared Direct Testimony Of San Diego Gas & Electric Company In Support Of Application For Authority To Enter Into Purchase Power Agreements With Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power, Public Version, Page 12 line 21 to page 13 line 3)

The Committee did not have the advantage of SDG&E's filing and rejected the "no project" alternative. The Proposed Decision's reasons are identified in italics below and the response of SDG&E's testimony are as follows:

- *"Meets the expanding need for new, highly efficient, reliable electrical generating resources that are dispatchable by the CAISO, and are located in the "load pocket" of the San Diego region"* – SDG&E stated in their recent filings with the California Public Utilities Commission (CPUC) that they have entered into power purchase agreements with three new natural gas power plants located within the SDG&E load pocket[4]. In addition to meeting SDG&E's expected power demands through 2018 (SDG&E Testimony, page 10), these three units will provide:

> "...environmental friendly, quick start generation units utilizing the most advanced and efficient gas-fired technologies. They also provide the starting and/or ramping capabilities required by the Commission to accommodate sudden changes in resources or loads." (SDG&E Application, page 5)

This filing demonstrates that it is not necessary to locate a new power plant in the coastal zone and that the CECP is not necessary to meet this objective.

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[3] SDG&E did not propose a power purchase agreement for any portion of the CECP.

[4] The two filings are: SDG&E, Application Of San Diego Gas & Electric Company (U 902 E) For Authority To Enter Into Purchase Power Tolling Agreements With Escondido Energy Center, Pio Pico Energy Center And Quail Brush Power, May 19, 2011 and SDG&E, Prepared Direct Testimony Of San Diego Gas & Electric Company In Support Of Application For Authority To Enter Into Purchase Power Agreements With Escondido Energy Center, Pio Pico Energy Center And Quail Brush Power, May 19, 2011

- *Improves San Diego regional electrical system reliability through fast starting generating technology, creating a rapid responding resource for peak demand situations, and providing a dependable resource to backup intermittent renewable resources like wind generation and solar* – As noted above, the projects selected by SDG&E will provide fast start capability, all of the units would be capable of being dispatched from "...a cold, "idle" state to full load within 10 minutes." (Testimony, page 28, 32, 37) In addition, SDG&E states that "...these generation facilities will help to mitigate the effects of intermittency associated with increased development of renewable generation." (Application, page 6)

The text of the PMPD gives four additional reasons for the rejection of the "No Project "alternative: (a) *All five Encina units would operate "as is" into the foreseeable future.* The projects for which SDG&E chose to sign power purchase agreements will shut down the Encina units, (b) *There would be efforts to find new sites for dispatchable gas-fired generation.* Again, the SDG&E contracted projects provide this generation. (c) *Environmental impacts such as increased air pollution because older units on the SDG&E system would have to operate.* There is no CECP contract (and of course, no CPUC filing seeking approval of such an agreement), so the SDG&E projects will displace the Encina units, and (d) *The CECP can utilize existing infrastructure.* Two of the three SDG&E projects are to be located on existing power plants and the third is next to the Sycamore landfill.

We are convinced that this is the wrong location for the proposed power plant for the reasons stated above and considering the vision that the City of Carlsbad has for its coastline. We also believe that this plant does not comply with our local laws and that the Proposed Decision disregards our local coastal program, jeopardizes our proposed coastal rail trail program, disregards our redevelopment plan, and jeopardizes our public safety. As the Energy Commission we recognize that you have the ability to override our laws, but you simply can't disregard them.

I'm asking you today to not approve this facility and help us locate it somewhere else.

Sincerely,

Lisa Hildabrand
City Manager