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DOCKET
07-AFC-6
DATE JUL 20 2011
RECD. JUL 20 2011

July 20, 2011

The Honorable James D. Boyd
Hearing Officer Paul Kramer
1516 9th Street
Sacramento, CA 95814

Subject: Carlsbad Energy Center Project (07-AFC-6) Status Report

Dear Commissioner Boyd and Hearing Officer Kramer:

The City of Carlsbad and the Carlsbad Redevelopment Agency are in receipt of Staff's status report, dated July 18, 2011. The City and Redevelopment Agency appreciate the efforts of staff in clarifying the issues to be heard and suggesting a process for testimony and hearings. Unfortunately, Staff's status report failed to suggest dates for intervenor testimony. We believe intervenor testimony should be submitted two weeks after the staff report. Since Staff recommend submitting its testimony on August 11, 2011, we recommend intervenor testimony be filed on August 25, 2011. Upon the submission of the staff report, the City and Redevelopment Agency may submit testimony in the areas of cumulative impacts and project alternatives. These analyses may assume the impacts of LAND-2 and -3 and consider additional proposed generation in the SDG&E service territory.

As the Committee is probably aware, the California Public Utilities Commission held a prehearing conference on July 14, 2011 on the application of SDG&E to approve the power purchase agreements executed with three proposed projects (CPUC Application 11-05-023). Although the CPUC has not yet filed a schedule for this proceeding, we anticipate that intervenor testimony will be filed in September with hearings in November of this year. Issues to be considered in the CPUC proceeding include: (1) Need for the three plants (DRA issue), (2) System reliability with and without the units (Alliance for Retail Energy Markets, Energy Users Forum, Direct Access Customer Coalition and Western Power Authority issue), and (3) Operation of the Encina Power station after 2017 (NRG issue). We believe that these issues are germane to this proceeding. We suggest that the Committee consider waiting for the CPUC to resolve these issues or find a pathway for the testimony in the CPUC proceeding on these three issues be brought into this case for consideration.

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With regard to the scope of Land Use issues, the City and Redevelopment Agency appreciate the efforts of the Committee in developing LAND-2 and LAND-3. With regard to the environmental impacts of demolition and remediation of the Encina Power Station, we anticipate that the City will issue the demolition permit and perform any necessary environmental impact analysis at the time the application for a demolition permit is considered. The City will, of course, coordinate this effort will all agencies having an interest in aspects of the demolition.

With regard to the location of the forthcoming hearings, we understand that the Committee may want to holding hearings in Sacramento on technical issues such as grid reliability, but we request that the Committee hold hearings in Carlsbad on matters of local concern such as the extraordinary public benefit conditions, cumulative impacts, and alternatives analysis.

We note that the Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) has been reviewing the proposed implementation plans submitted on April 1, 2011 by owners or operators of existing once-through cooling power plants. This includes the plan submitted for the Encina Power Station. According to the state's adopted Once-Through Cooling Policy (page 9), the SACCWIS is to submit its evaluation and recommendations to the State Water Board no later than October 1, 2011. This report may be informative to the Commission in considering cumulative impacts and alternatives.

Finally, we also believe there is a significant open issue in the current record regarding the scope and intent of the language in the PMPD Errata on page 16 which states: "Given the Energy Commission's exclusive jurisdiction over the permitting and regulation of thermal power plants such as the CECP, we believe the role of "fire code official" falls to us as we must both set the development standards for the project and then enforce them." This statement has caused concern regarding the role of the Commission and its ability to fulfill the role of "fire code official" under state law. We request that the Committee schedule some time during the hearing to discuss this issue.

Respectfully submitted,

RONALD R. BALL
City Attorney and General Counsel

c: Lisa Hildabrand, City Manager
Project Team

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 5/18/2011)

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DECLARATION OF SERVICE

I, Robin Huschy, declare that on 7.20, 2011, I served and filed copies of the attached Letter, dated 7.20, 2011. The original document filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:
[http://www.energy.ca.gov/sitingcases/carlsbad/index.html].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

X sent electronically to all email addresses on the Proof of Service list;

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AND

FOR FILING WITH THE ENERGY COMMISSION:

X sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

OR

___ depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Robin Huschy

*indicates change