



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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**APPLICATION FOR CERTIFICATION (AFC) FOR THE
CARLSBAD ENERGY CENTER PROJECT**

DOCKET No. 07-AFC-6

**COMMITTEE RULING ON INTERVENOR POWER OF VISION'S
PETITION TO MODIFY ORDER COMPELLING DATA RESPONSES**

On May 27, 2009, Intervenor Power of Vision (POV) issued a Data Request to Carlsbad Energy Center, LLC (Applicant), for specified fuel use and emissions data. On June 19, 2009, the Applicant objected to the Data Request. POV responded on June 29, 2009, by filing a Petition to Compel Response to Data Requests. Following response from the Applicant, the Carlsbad AFC Committee, on September 15, 2009, ordered the Applicant to “provide the electronically generated data from the CEMS [continuous emission monitoring systems] for Units 1 through 3 for 2003 through 2008.” That order partially satisfied POV’s request for data from 2002 through 2008, leaving out data for 2002 and the portion of 2003 for which electronic CEMS data is not available. Subsequently the Applicant provided the CEMS data.

On September 25, 2009, POV further petitioned for a modification of our order to include the additional data from 2002 and 2003. It argues that the information is “of prime importance to us for our analysis of the pollution offsets and required ERCs for this project, since the 2002 and 2003 period is when the largest emissions occurred, and even a small anomaly in the data from this period will have a marked effect on the offsets.”

In our previous order, we drew a careful balance between the burden on the applicant to produce the requested data and the late timing of the request, finding it appropriate to require the relatively easily producible electronic data but not data held in less easily produced forms. We see no reason to change that decision. The San Diego Air Pollution Control District’s Final Determination of Compliance calculates emissions during the period prior to the installation of new emission controls in 2003 as if the new controls were installed, thus addressing POV’s concern about that those emissions would improperly affect the offsets.¹ Further, POV’s concern for the 2002—2003 period is first found in its most recent petition, not in the original Data Request or Petition to Compel, where the emphasis was placed on perceived anomalies in the data for 2007 and 2008.

¹ August 3, 2009 Final Determination of Compliance, pp. 21 – 24.

For the reasons stated above, the Further Petition to Compel Data Responses is **denied**.

Dated November 9, 2009, at Sacramento, California.

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JAMES D. BOYD
Vice Chair and Presiding Member
Carlsbad AFC Committee

A handwritten signature in black ink, appearing to read "Karen Douglas", written over a horizontal line.

KAREN DOUGLAS
Chairman and Associate Member
Carlsbad AFC Committee