



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION FOR THE
CARLSBAD ENERGY CENTER PROJECT**

DOCKET No. 07-AFC-6

REVISED COMMITTEE SCHEDULING ORDER

On June 30, 2011, the full Energy Commission referred the Presiding Member's Proposed Decision and Errata in this proceeding back to the Carlsbad Siting Committee for further hearings regarding several topics. The relevant portion of that Order is as follows:

“On June 29, 2011, the Center for Biological Diversity filed a New Motion for Evidentiary Hearing regarding greenhouse gas issues, cumulative impacts and alternatives analysis including all issues related to SDG&E's application for approval of Power Purchase Agreements with three power plant projects. We GRANT the motion with respect to evaluation of the impact of the three new projects on our cumulative impacts and alternatives analysis. In addition, we REMAND the matter to the Carlsbad AFC Committee to take evidence and revise the PMPD as needed on those issues and in addition 1) issues associated with Conditions Land-2 and Land-3 and their environmental impacts, and 2) the grid reliability issues raised by the comments from CAISO during the June 30, 2011, Business Meeting. The Committee may, in its discretion, consider other issues, with or without additional hearings.”

On July 18, 2011, Commission Staff filed its Status Report #11 indicating that it would file supplemental testimony on the specified topics on August 11, 2011. The City of Carlsbad, Center for Biological Diversity, and Power of Vision filed responses to the Staff's Status Report on July 20, 21, and 25, respectively.

Following consideration of the comments of the parties, the Committee establishes the attached schedule for the remainder of this proceeding. Once a location for the further evidentiary hearing is obtained, a formal notice of that hearing will be issued. Pending issuance of that notice, the parties are directed to prepare for the hearing, including filing testimony and other actions as specified in the attached schedule.

The Center for Biological Diversity suggests that the hearing be postponed until a Prevention of Significant Deterioration permit is issued by the United States Environmental Protection Agency and the San Diego Air Pollution Control District revisits and perhaps revises its Determination of Compliance for this project. We direct the parties to discuss whether such delays are necessary in their testimony and expect that they will be prepared to address the issue during the September hearing.

Further reasons offered for delaying the hearing include the California Public Utility Commission's consideration of San Diego Gas and Electric's petition for approval of three power purchase agreements (PPAs) and review by a State Water Resources Control Board advisory panel of the existing Encina power plant's compliance with future once-through cooling requirements. The Committee declines to postpone the hearing on those bases. To the extent that evidence that might be presented during either proceeding is relevant to the above described issues that we are considering on remand, the parties are free to offer it for our September hearing. The Errata's discussion of Conditions of Certification LAND-2 and LAND-3, at pages 30-32, explains that there are several variables that affect when and whether the Encina project will be torn down. Approval of PPAs does not mean that the contracted plants will be constructed and operated; local agency or Energy Commission permits must be obtained, as well as financing. Whether the operation of those plants means that this project, if approved, would not be constructed and operated, is also speculative. It is also possible that the remaining Encina units will be allowed to run, either because they are necessary for local system support or with a modified cooling system that satisfies the Water Board's standards. The retirement of the remaining Encina generators does not assure that the stack and powerblock structure will be torn down; they might sit unused for many years. LAND-2 and LAND-3, which require a plan for, permit applications, and financing of the removal of the stack and powerblock, address those uncertainties. The record contains ample evidence on these topics and we need not wait for other agencies to further debate them.

The schedule does not contemplate the filing of additional briefs following the evidentiary hearing. Should it become necessary for briefs, the parties are hereby cautioned that they may be due within as soon as ten (10) days following the evidentiary hearing.

The Committee may further modify the schedule at any time upon either its own motion or that of a party. [Cal. Code Regs., tit. 20, § 1709.7(c).]

We also take this opportunity to remind the parties of our general expectations regarding the exchange of evidence. The presentation of previously undisclosed evidence during the hearings is disruptive to the process and will be avoided wherever feasible. The attached schedule contains milestones for the filing of both opening and rebuttal testimony. Evidence not identified and shared during that process will not be admitted unless a showing of good cause is made.

Dated August 12, 2011, at Sacramento, California.

A handwritten signature in black ink, appearing to read "James D. Boyd", written over a horizontal line.

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

**REVISED COMMITTEE SCHEDULE
FOR THE
CARLSBAD ENERGY CENTER PROJECT
(07-AFC-6)**

DATE	EVENT
August 11, 2011	Staff files supplemental testimony and exhibits
August 22, 2011	Applicant files responsive testimony and exhibits, witness lists and time estimates
August 31, 2011	Other parties file responsive testimony and exhibits, witness lists and time estimates
September 9, 2011	All parties file rebuttal testimony, identify which materials referenced in or attached to other parties' opening testimony they want copies of, and (if necessary) revised witness lists and time estimates
September 13, 2011	Prehearing Conference (Sacramento, with telephonic participation encouraged)
September 14, 2011	All requested material is served on all other parties
September 19, 2011(beginning at 9:00 a.m.)	Evidentiary Hearing (in Carlsbad vicinity)
3 – 4 weeks after Evidentiary Hearing	Revised Presiding Member's Proposed Decision (RPMPD) issued for 30 day comment period
Tbd (near the end of RPMPD comment period)	RPMPD Comment Committee Conference
30 days after RPMPD issued	RPMPD Comment period ends
1 – 2 weeks after RPMPD comment period ends	Revised RPMPD issued* for 15 day review period*
Tbd (shortly after RPMPD or Revised RPMPD comment period ends)	Energy Commission Decision Adoption Hearing

Tbd = to be determined; * if necessary.

August 10, 2011



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**APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT**

**Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 8/1/2011)**

APPLICANT

Jennifer Hein
George Piantka, PE.
NRG Energy, Inc., West Region
5790 Fleet Street, Ste. 200
Carlsbad, CA 92008
jennifer.hein@nrgenergy.com
george.piantka@nrgenergy.com

APPLICANT'S CONSULTANTS

Robert Mason, Project Manager
CH2M Hill, Inc.
6 Hutton Centre Drive, Ste. 700
Santa Ana, CA 92707
Robert.Mason@ch2m.com

Megan Sebra
CH2M Hill, Inc.
2485 Natomas Park Drive, Ste. 600
Sacramento, CA 95833
Megan.Sebra@ch2m.com

COUNSEL FOR APPLICANT

John A. McKinsey
Stoel Rives, LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
jamckinsey@stoel.com

INTERESTED AGENCIES

California ISO
e-mail service preferred
e-recipient@caiso.com

Terramar Association
Kerry Siekmann & Catherine Miller
5239 El Arbol
Carlsbad, CA 92008
siekmann1@att.net

INTERVENORS

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Allan J. Thompson
21 "C" Orinda Way #314
Orinda, CA 94563
allanori@comcast.net

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Joseph Garuba,
Municipals Project Manager
Ronald R. Ball, Esq., City Attorney
1200 Carlsbad Village Drive
Carlsbad, CA 92008
e-mail service preferred
Joe.Garuba@carlsbadca.gov
ron.ball@carlsbadca.gov

California Unions for Reliable Energy
(CURE)
Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
gsmith@adamsbroadwell.com
mdjoseph@adamsbroadwell.com

Center for Biological Diversity
c/o William B. Rostov
EARTH JUSTICE
426 17th Street, 5th Floor
Oakland, CA 94612
wrostov@earthjustice.org

Power of Vision
Julie Baker & Arnold Roe, Ph.D.
4213 Sunnyhill Drive
Carlsbad, California 92013
e-mail service preferred
powerofvision@roadrunner.com

Rob Simpson
Environmental Consultant
27126 Grandview Avenue
Hayward, CA 94542
rob@redwoodrob.com

*April Rose Sommer
Attorney for Rob Simpson
P.O. Box 6937
Moraga, CA 94570
aprilsommerlaw@yahoo.com

**ENERGY COMMISSION –
DECISIONMAKERS**

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

Tim Olson
Adviser to Vice Chair Boyd
tolson@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

ENERGY COMMISSION STAFF

Mike Monasmi
Siting Project Manager
mmonasmi@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

**ENERGY COMMISSION – PUBLIC
ADVISER**

Jennifer Jennings
Public Adviser's Office
e-mail service preferred
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Maggie Read, declare that on, August 12, 2011, I served and filed copies of the attached Revised Committee Scheduling Order, dated August 12, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/carlsbad/index.html].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT

Attn: Docket No. 08-AFC-11
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California 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.

Original signed by: _____
Maggie Read
Hearing Adviser's Office