



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

**COMMITTEE RULING ON MOTIONS TO STRIKE STAFF GREENHOUSE GAS FILING
AND CITY OF CARLSBAD REQUEST TO TAKE OFFICIAL NOTICE
AND
COMMITTEE TIMETABLE FOR RELEASE OF REVISED PRESIDING MEMBER'S
PROPOSED DECISION AND COMMENT HEARING**

The Carlsbad AFC Committee issues the following rulings on pending motions and timetable for the remaining events in this matter:

Staff Greenhouse Gas Filing. On December 12, 2011, we held an additional hearing to accept evidence and argument on the following topics:

1. The impact of the three new San Diego Gas & Electric Power Purchase Agreement projects on our cumulative impacts and alternatives analysis;
2. Conditions Land-2 and Land-3, their environmental impacts and appropriate modifications to address the financial concerns raised by the Applicant;
3. Grid reliability issues raised by the comments from California ISO during the June 30, 2011 Energy Commission Business Meeting;
4. The federal PSD permit that the project will require in order to operate;
5. Recent city land use LORS amendments contained in Resolution 2011-230 and Ordinance CS-158; and
6. Additional evidence, not previously presented, regarding whether it is appropriate to override either unmitigated environmental impacts or noncompliance with state or local LORS.

The parties requested permission to file briefs on the topics heard at the hearing and did so on or before the agreed upon January 10, 2012 deadline. Then, on February 2, 2012, Commission Staff filed a memorandum entitled “Staff Responses to Comments Made by the Center for Biological Diversity Pertaining to Staff’s Greenhouse Gas Emissions Analysis for Carlsbad Energy Center Project” (“Staff GHG Responses”). The Center for Biological Diversity (CBD), city of Carlsbad, and Terramar each objected to or moved to strike the Staff GHG Responses or, alternatively, for an opportunity to respond.

The Staff GHG Responses are at best tangentially related to the issues we identified and heard additional evidence and argument on in our December hearing. One of the purported “benefits” of the proposed project is, a system wide reduction in GHG emissions from the operation of CECP displacing less efficient units that emit higher levels of GHG. That topic was thoroughly discussed in hearings prior to December 12 and in the original PMPD issued in May, 2012 and thus does not fall into the category “[a]dditional evidence, not previously presented, regarding whether it is appropriate to override. Staff was not alone in revisiting this topic; CBD repeated its previous criticisms of Staff’s GHG analysis in its January 10, 2012 Post December 12, 2011 Evidentiary Hearing Brief.

Recognizing that both parties’ arguments, though largely cumulative of those made earlier in this proceeding, could be offered following the upcoming release of the Revised PMPD, we **deny** the Objections and Motion to Strike but **permit the parties to file responses** on or before April 2, 2012, to allow all to prepare to discuss this issue during the April 19, 2012 RPMPD Comment Hearing.

City of Carlsbad Request to Take Official Notice. On January 9, 2012, the city of Carlsbad filed its Motion for Official Notice of [California Public Utilities Commission] comments to California ISO dated December 22, 2011. In essence the city asks that we take into account in making our decision a portion of comments made in another proceeding without opportunity for the other parties to question the author(s) or otherwise reply. To properly do so, we would have to give the other parties an opportunity to respond and, most likely, entertain additional evidence, further delaying the issuance of our revised proposed decision. We decline to do so and **deny** the motion.

Timetable. The Committee intends to release the Revised Presiding Member’s Proposed Decision on or before March 21, 2012. We have reserved April 19, 2012 on our calendars for a RPMPD comment hearing in Carlsbad. A special Energy Commission hearing to consider adoption of the RPMPD is anticipated approximately

four weeks later. Formal notice, with start times and remote access information, will accompany the release of the RPMPD.

Dated March 6, 2012, at Sacramento, California.

Original Signed By:

KAREN DOUGLAS
Commissioner
Carlsbad AFC Committee



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FOR THE CARLSBAD ENERGY
CENTER PROJECT**

**Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 3/1/2012)**

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-recipient@caiso.com

INTERVENORS

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

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
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
julbaker@pacbell.net
roe@ucla.edu

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**

KAREN DOUGLAS
Commissioner and Associate Member
kldougla@energy.state.ca.us

Galen Lemei
Adviser to Commissioner Douglas
glemei@energy.state.ca.us

Tim Olson
Adviser to Commissioner Douglas
tolson@energy.state.ca.us

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

ENERGY COMMISSION STAFF

Mike Monasmith
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
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on March 6, 2012, I served and filed a copy of the attached COMMITTEE RULING ON MOTIONS TO STRIKE STAFF GREENHOUSE GAS FILING AND CITY OF CARLSBAD REQUEST TO TAKE OFFICIAL NOTICE AND COMMITTEE TIMETABLE FOR RELEASE OF REVISED PRESIDING MEMBER'S PROPOSED DECISION AND COMMENT HEARING. This document is accompanied by 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 marked "hard copy required."

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. 07-AFC-6
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:

RoseMary Avalos
Hearing Adviser's Office