



**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**

IN THE MATTER OF:

**APPLICATION FOR CERTIFICATION FOR THE
*CHULA VISTA ENERGY UPGRADE
PROJECT***

DOCKET No. 07-AFC-4

**COMMITTEE ORDER DENYING MOTION OF INTERVENOR ENVIRONMENTAL HEALTH COALITION
FOR A CHANGE OF VENUE**

Upon consideration of the Motion for a Change of Venue filed by Intervenor Environmental Health Coalition (EHC), the Committee designated to conduct proceedings in this matter makes the following findings:

1. On August 22, 2008 the Committee issued notice of a Prehearing Conference and Evidentiary Hearing (the Hearings) to be conducted at Chula Vista City Hall, Council Chambers, on September 18, 2008 and October 2, 2009, respectively.
2. On August 27, 2008, a Motion for Change of Venue in the above-captioned proceeding was filed by:

Environmental Health Coalition
Leo Miras
401 Mile of Cars Way, Suite 310
National City, CA 91950

3. The Applicant timely filed opposition to said Motion, urging the Committee to retain the noticed hearing location. No other party has objected to the noticed hearing location.
4. The basis for EHC's motion is that conducting the hearings at the Otay Recreation Center, a city-owned gymnasium roughly two blocks from the proposed project site, will provide more residents of the neighborhood close to the proposed site the opportunity to participate in the hearings than holding the hearings at City Hall, which is 4 miles from the proposed site.
5. The Informational Hearing and Site Visit, and two CEC workshops, were conducted at the Otay Recreation Center.
6. EHC also claims that its not having been included in unspecified discussions regarding where to hold the Hearings is "a serious affront to an open and transparent process."
7. We address this last contention first. Decisions made by CEC regarding the locations

of hearings are internal, administrative decisions and are not subject to public participation. While the CEC strives to make its process of reviewing applications to construct electrical generating facilities a public one, deciding where to hold hearings does not affect the outcome of that process and, accordingly, is not subject to public participation. The CEC looks for hearing locations that are suitable to the nature of the hearing.

8. The CEC evidentiary hearing is akin to a civil trial in a court of law. It is essential that acoustics, lighting, seating, audio-visual facilities, and security be the best available in the community. Where a city or county council chamber is available, that is usually the most suitable facility. These rooms typically have large auditoriums where a sizeable public audience may be comfortably accommodated, have excellent audio-visual facilities, lighting sufficient to enable all participants to read the voluminous documents, many of them technical, that are introduced into evidence, and security, including the availability of law enforcement personnel on site, to ensure the safety of all participants. Chula Vista City Hall Council Chambers is such a facility, and it is typical of the facilities CEC routinely uses for hearings of this type.
9. The Otay Recreation Center gymnasium is not a suitable facility for the conduct of formal evidentiary hearings. Its hard floor and walls create a difficult acoustic environment. The room contains no audio visual equipment of any kind, and has no furniture, necessitating bringing in portable equipment. The lighting is not suitable for an evidentiary proceeding. It is not a secure building.
10. The Committee also notes that the past hearings conducted at the Otay Recreation Center gymnasium have disrupted other important community activities. The Informational Hearing disrupted child care activities. The workshops disrupted activities at the adjacent school, and the disorderly conduct of some participants was not conducive to the Recreation Center's intended use as a childrens' after school recreation and study site. Use of the gymnasium by CEC precluded its use for recreational activities by members of the community.
11. Chula Vista City Hall is a reasonable distance from the proposed project site. It is easily accessible by car or public transportation from anywhere in Chula Vista.
12. Chula Vista City Hall, like all city halls, is a public facility provided specifically for the conduct of public meetings such as the CEC hearings. Using this facility will afford the Committee the best opportunity to provide a full and fair hearing.
13. The City Hall Council Chambers have the capability of televising hearings conducted there over the local cable network. Residents could thus view the hearings live on television from home. This capability would likely provide more residents an opportunity to see and hear the proceedings than holding them in a facility that lacks broadcast capability. Anyone can arrange to have the hearings televised by contacting the City's Communications Department and paying the necessary fees.

THEREFORE, the Committee **ORDERS** that motion of EHC for a change of venue is ***DENIED***. The Prehearing Conference and the Evidentiary Hearing will be held at the time and place set forth in the Notice dated August 22, 2008.

Dated on September 10, 2008 in Sacramento, California.

Original signed by:
JACKALYNE PFANNENSTIEL
Chairman and Presiding Member
Chula Vista Energy Upgrade
AFC Committee

Original signed by:
JAMES D. BOYD
Vice Chair and Associate Member
Chula Vista Energy Upgrade
AFC Committee