

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION FOR THE
EASTSHORE ENERGY CENTER IN HAYWARD
BY TIERRA ENERGY

DOCKET No. 06-AFC-6
(AFC ACCEPTED 11/8/06)

NOTICE OF AVAILABILITY OF THE PRESIDING MEMBER'S PROPOSED DECISION AND
NOTICE OF EVIDENTIARY HEARING AND NOTICE OF COMMITTEE CONFERENCE

I. NOTICE OF AVAILABILITY

On June 20, 2008, the Committee issued the Presiding Member's Proposed Decision (PMPD) for Eastshore Energy Center (EEC). Copies of the PMPD have been sent to the Proof of Service list. The PMPD may be viewed on the Commission's internet website at: www.energy.ca.gov/sitingcases/eastshore

For a printed copy, call the Publications Unit at 916-654-5200, and ask for Publication No. CEC 800-2008-004- PMPD. The public comment period on the PMPD ends on **Monday, July 28, 2008.**

II. NOTICE OF SUPPLEMENTAL EVIDENTIARY HEARING

PLEASE TAKE NOTICE that the Committee has scheduled a Supplemental Evidentiary Hearing to reopen the record and to receive evidence as follows:

MONDAY, July 21, 2008
Beginning at 1 pm

Hayward City Hall Chambers
777 B Street
Hayward, CA 94541
Wheelchair Accessible
(Map Attached)

As indicated in the PMPD, we will reopen the record at the Supplemental Evidentiary Hearing for the limited purpose of taking evidence on the issues specified below:

AIR QUALITY. Applicant and Staff shall consult with the California Air Resources Board (CARB) to identify and implement the appropriate modeling protocol to ensure that the project complies with the new state NO₂ standard (adopted March 20, 2008), which lowered the existing 1-hour-average standard for NO₂ of 0.25 ppm to 0.18 ppm, not to be exceeded, and established a new annual-average standard of 0.030 ppm, not to be exceeded.

PUBLIC HEALTH. Applicant and Staff shall provide evidence regarding the relevance of new ambient air quality data from CARB's March 18, 2008, Draft Health Risk Assessment on diesel particulate emissions in the Oakland area for the purpose of characterizing ambient air quality in the East Bay for the risk assessment required by Condition **PUBLIC HEALTH-1**.

WORKER SAFETY AND FIRE PROTECTION. No mitigation is proposed to address Staff's preliminary finding that the *project's incremental effect on fire and emergency response would be cumulatively considerable*. Although the Hayward Fire Department (HFD) did not provide information on the costs of upgrading Opticom, the HFD's failure to respond does not obviate the project's potential cumulative impact on HFD services. We believe this impact must be mitigated. The Applicant, Staff, and City of Hayward are directed to draft a Condition of Certification to resolve this issue.

PROCEDURE

During the Supplemental Evidentiary Hearing, all parties (Applicant, Staff, and Intervenor, if applicable) shall present evidence consisting of declarations or sworn testimony in person, and exhibits for each topic area. The parties must identify their witnesses and submit their prepared written testimony in the form of sworn declarations by the date indicated below. All witnesses who appear in person shall testify under oath or affirmation and are subject to cross-examination by other parties.

The parties shall file and serve copies of their prepared written testimony and proposed exhibits no later than **5 p.m. Tuesday, July 15, 2008**. The parties shall also send electronic copies of their written testimony and exhibits to the Proof of Service list via e-mail and additional copies to the Hearing Officer in MS Word format.

The rules of evidence pertaining to this evidentiary hearing may be found at Sections 1212-1213 of the Commission's regulations. [Cal. Code Regs., tit. 20, §§ 1212, 1213; see also § 1702 (h)]. The regulations can be viewed on the Commission's Internet website at: [<http://www.energy.ca.gov/siting/title20/tofc.html>].

The Committee will provide time for members of the public to comment on the issues discussed at the Supplemental Evidentiary Hearing.

III. NOTICE OF COMMITTEE CONFERENCE

PLEASE TAKE NOTICE that immediately after we close the Supplemental Evidentiary Hearing, the Committee will convene a Committee Conference on the PMPD at the same location as follows:

MONDAY, July 21, 2008
Following the Supplemental Evidentiary Hearing

2 pm to 5 pm (Approximate)
6 pm to 8 pm (Public Comment)

Hayward City Hall Chambers
777 B Street
Hayward, CA 94541
Wheelchair Accessible

COMMENTS ON THE PMPD

The purpose of the Committee Conference is to consider oral and written comments on the PMPD from the parties, governmental agencies, and members of the public. The parties shall file and serve their initial written comments on the PMPD **no later than 5 p.m. on Tuesday, July 15, 2008**. The parties shall also send electronic copies of their comments to the Proof of Service list via e-mail and additional copies to the Hearing Officer in MS Word format. Comments may include clarifications based on the evidentiary record and legal argument.

Public Comments: Members of the public and governmental agency representatives are encouraged to submit their written comments by **Tuesday, July 15, 2008**, either by mailing to the Commission Docket Unit (1516 Ninth Street, MS-15, Sacramento, CA 95814) or by e-mail: [**docket@energy.state.ca.us**](mailto:docket@energy.state.ca.us). Identify all comments with "**Docket No. 06-AFC-6.**" We will accept additional written comments from the parties, the public, and governmental agencies until the close of the comment period on **Monday, July 28, 2008**.

At the PMPD conference, members of the public will have an opportunity to present their written and oral comments to the Committee regarding the PMPD. It will not be necessary for participants to repeat comments that they may have offered at the Supplemental Evidentiary Hearing preceding the PMPD Conference.

PUBLIC PARTICIPATION

For information on how to participate, contact the Energy Commission's Office of the Public Adviser at 1-916-654-4489 or toll free at 1-800-822-6228, or email at: pao@energy.state.ca.us.

REMAINING SCHEDULE

Event	Date
Parties' Written Testimony and Exhibits for Supplemental Evidentiary Hearing due	Tuesday, July 15, 2008
Parties' Initial Written Comments on PMPD Due	Tuesday, July 15, 2008
Supplemental Evidentiary Hearing and PMPD Conference	Monday, July 21, 2008
Close of PMPD Comment Period	Monday, July 28, 2008
Committee Issues Revised PMPD	TBA
Minimum 15-day Comment Period on Revised PMPD	TBA
Energy Commission Hearing on Revised PMPD	TBA

ADDITIONAL INFORMATION

Questions of a legal or procedural nature should be directed to Susan Gefter, the Hearing Officer, at 1-916-654-3893 or e-mail at: sgefter@energy.state.ca.us.

Technical questions concerning the project should be addressed to Bill Pfanner, the Staff Project Manager, at 1-916-654-4206 or e-mail at: bpfanner@energy.state.ca.us.

If you have a disability and need assistance to participate, please contact Lourdes Quiroz at 1-916-654-5146 or e-mail at: lquiroz@energy.state.ca.us.

Media inquiries should be directed to the Office of Media and Public Communications at 1-916-654-4989 or e-mail at: mediaoffice@energy.state.ca.us.

Documents concerning the project proposal can be viewed on the Energy Commission's website at: www.energy.ca.gov/sitingcases/eastshore.

Dated June 20, 2008, at Sacramento, California.

Original Signed By:

JEFFREY D. BYRON
Commissioner and Presiding Member
Eastshore AFC Committee

Mailed to Lists: POS, 7071, 7072, 7073

