



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

California Energy Commission

DOCKETED
11-AFC-02

TN # 69434

FEB. 08 2013

***APPLICATION FOR CERTIFICATION FOR THE
HIDDEN HILLS SOLAR ELECTRIC
GENERATING SYSTEM***

Docket No. 11-AFC-02

ORDER RE: STAFF'S MOTION FOR SUBPOENA DUCES TECUM AND MOTION FOR EXTENSION OF TIME FOR REBUTTAL TESTIMONY OR, IN THE ALTERNATIVE, MOTION TO STRIKE TESTIMONY and MOTION TO WITHDRAW THAT MOTION

Procedural Background:

On February 1, 2013, the Committee designated to conduct proceedings on the above-captioned Application for Certification (AFC) received Staff's Motion For Subpoena Duces Tecum And Motion For Extension Of Time For Rebuttal Testimony Or, In The Alternative, Motion To Strike Testimony (hereinafter "Staff's Motion").

The Motion sought a subpoena to secure the attendance and participation of Gary Santolo at Staff's February 11, 2013 workshop and a subpoena duces tecum requiring him to provide other relevant documents.

Staff's Motion further sought a four day extension to submit testimony limited to rebuttal of Mr. Santolo's SEDC Flux study by February 15, 2013, instead of February 11, 2013 which is the current due date for rebuttal testimony.

Finally, Staff's Motion sought to strike all of Mr. Santolo's testimony if Applicant failed to produce either the witness or the requested information.

On February 4, 2013, the Committee received Intervenor, Cindy R. MacDonald's Response To Energy Commission Staff Motion opposing the Motion. Intervenor MacDonald joined in Staff's Motion, however, she objected to striking the SEDC Flux study or any of Mr. Santolo's testimony as a sanction, since part of her case is dependent on his testimony.

On February 6, 2013, the Committee received Staff's Motion to (1) Withdraw Motions For Subpoena Duces Tecum, Extension Of Time For Rebuttal Testimony Or To Strike Testimony And (2) Modify Order Re Evidentiary Hearings.

Discussion and Analysis

The Committee encourages resolution of procedural issues between the parties. Here, Energy Commission staff sought a subpoena and a subpoena duces tecum to secure the presence of Applicant's witness and documents related to his testimony at Staff's upcoming workshop. Apparently, Applicant has agreed to provide the witness and the documents without further Committee involvement. Since we cannot conceive any prejudice to any of the parties, there is no reason to interfere in the withdrawal of Staff's motion. Therefore, Staff's motion to withdraw its motion for the subpoena and subpoena duces tecum is **GRANTED**.

Further, good cause exists for the short extension of time requested for submission of rebuttal testimony limited to issues related to avian impacts from solar flux arising out of the February 11, 2013 workshop. Accordingly, the Committee's Notice of Prehearing Conference and Evidentiary Hearing and Order dated December 21, 2012, is modified to require that optional rebuttal testimony addressing the avian impacts from solar flux issues shall be docketed by all parties by 3:00 p.m. on February 15, 2013. Optional sur-rebuttal testimony by the Applicant shall be docketed by 3:00 p.m. on February 20, 2013.

So Ordered.

Dated: February 8, 2013, at Sacramento, California.

Original Signed By: _____

KAREN DOUGLAS
Commissioner and Presiding Member
HHSEGS AFC Committee



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(Revised 2/8/13)**

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*After docketing, the Docket
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KAREN DOUGLAS
Commissioner and Presiding
Member

TBD
Commissioner and Associate
Member

Ken Celli
Hearing Adviser

Galen Lemei
Adviser to Presiding Member

Jennifer Nelson
Adviser to Presiding Member

TBD
Adviser to Associate Member

Eileen Allen
Commissioners' Technical
Adviser for Facility Siting

DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on February 8, 2013, I served and filed copies of the attached ORDER RE: STAFF'S MOTION FOR SUBPOENA DUCES TECUM AND MOTION FOR EXTENSION OF TIME FOR REBUTTAL TESTIMONY OR, IN THE ALTERNATIVE, MOTION TO STRIKE TESTIMONY and MOTION TO WITHDRAW THAT MOTION, dated February 8, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at: <http://www.energy.ca.gov/sitingcases/hiddenhills/>.

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- X I e-mailed the document to all e-mail addresses on the Service List above and personally delivered it or deposited it in the US mail with first class postage to those parties noted above as "hard copy required"; **OR**
- Instead of e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the Service List for whom a mailing address is given.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: February 8, 2013

Original Signed By:
RoseMary Avalos
Hearing Office