



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
**RICE SOLAR ENERGY POWER
PLANT PROJECT**

DOCKET No. 09-AFC-10

PREHEARING CONFERENCE AND EVIDENTIARY HEARING ORDER

PLEASE TAKE NOTICE that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **RICE SOLAR ENERGY POWER PROJECT** has established the following schedule for the filings and activities leading to the **October 29, 2010**, Prehearing Conference and Evidentiary Hearing:

Action	Date
All Parties File Opening Testimony and Copies of Written Testimony and Documentary Evidence	10/21/2010, by 3:00 p.m.
All Parties File Prehearing Conference Statements, Witness Lists, and Exhibit Lists	10/27/2010, by 3:00 p.m.
All Parties File Rebuttal Testimony	10/27/2010, by 3:00 p.m.
Prehearing Conference and Evidentiary Hearing	10/29/2010

Purpose of Prehearing Conference

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an Evidentiary Hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the certification process. (Cal. Code Regs., tit. 20, § 1718.5.)

At the Prehearing Conference, all parties shall present their respective positions regarding: the substantive topic areas ready for evidentiary hearing; those topics that require further analysis, including the nature of, and time frame for, any such analysis; the topic areas that have been resolved; and the topic areas that are disputed and require adjudication. The parties shall also identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

Local, state, and federal governmental agencies may participate at the Prehearing Conference and Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20, § 1714.5.) Elected officials and members of the public may present public comments at

these events and/or submit written comments to the Energy Commission's Docket Unit. Please include "**Docket No. 09-AFC-10**" on any written comments.

Prehearing Conference Statement

Each party is **ORDERED** to serve and file a **PREHEARING CONFERENCE STATEMENT** containing all of the information described below. The parties shall e-mail their statements to the Hearing Officer, to the parties as indicated on the proof of service list, and submit both an e-mail and paper copy to the Commission's Docket Unit, 1516 9th Street, MS-4, Sacramento, California 95814-5512, so as to be received **NO LATER than 3:00 p.m. on Wednesday, October 27, 2010**. The parties shall also submit a **WORD version** of their statements to the Hearing Officer via e-mail.

NOTE: FAILURE TO FILE A PREHEARING CONFERENCE STATEMENT BY THE DEADLINE MAY PRECLUDE A PARTY FROM PARTICIPATING AT THE PREHEARING CONFERENCE AND EVIDENTIARY HEARING.

Each statement shall include the following elements:

1. The topic areas that are complete and ready to proceed to Evidentiary Hearing;
2. The topic areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor;
3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
4. The identity of each witness sponsored by each party (**note**: witnesses must have professional expertise in the scope of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness;
5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination;
6. An exhibit list identifying exhibits and declarations that each party intends to offer into evidence (**see attached sample for required format**). The Hearing Office will provide the parties with a **Word version of the Exhibit List template**;
7. Proposals for briefing deadlines and other scheduling matters; and,
8. For all topics, the parties shall review the Proposed Conditions of Certification listed in the Staff Assessment/Draft Environmental Impact Statement for enforceability,

comprehension, and consistency with the evidence, and submit any proposed modifications.

Format for Providing Written Testimonial and Documentary Evidence

In addition to the witness and exhibit lists provided with the Prehearing Conference Statements, the parties shall also provide copies of their written testimony and documentary evidence to the Committee and other parties **ON OR October 21, 2010 as specified above.**

On or before October 21, 2010, the parties shall also provide hard copies of written testimony and documentary evidence to the Hearing Officer in the following format:

Each document shall be numbered and identified on an **Exhibit List**. (See attached sample Exhibit List.)

- Applicant's exhibits shall be numbered consecutively as **Exhibits 1 through 199**. **Exhibit 1** shall be the Application for Certification. (**note**: Include a copy of the AFC);
- Staff's exhibits shall be numbered consecutively as **Exhibits 200 through 299**. **Exhibit 200** shall be the Staff Assessment. (**note**: provide the Staff Assessment only upon request);

The parties may provide each other with copies of the written and documentary evidence in electronic form on CD or DVD.

NOTE: FAILURE TO EXCHANGE WRITTEN TESTIMONIAL AND DOCUMENTARY EVIDENCE BY THE DEADLINES MAY PRECLUDE A PARTY FROM PARTICIPATING AT THE EVIDENTIARY HEARING.

Presenting Evidence and Argument Regarding Public Convenience and Necessity

Under Public Resources Code section 25525, the Commission may certify an application for certification even if it finds that that the facility does not conform to any applicable state, local, or regional standards, ordinances, or laws or has unmitigable significant environmental impacts. To do so, the Committee must determine that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. Parties' opening testimony and presentation of evidence should address the application of Public Resources Code section 25525.

Notice of Committee's Intention to Use Informal Hearing Procedures

Pursuant to Government Code section 11445.10 et seq. and section 1217 of the Commission's regulations, the Committee may conduct all or portions of the Evidentiary

Hearings in an informal manner in which, for example but not by way of limitation, a panel of witnesses sponsored by a single party or by multiple parties testify at one time, with an exchange of questions and responses between the witnesses and counsel for the various parties substituting for formal direct and cross-examination. Any objections to the taking of testimony in an informal manner shall be filed on or before the deadline for filing Prehearing Conference Statements. The parties are encouraged to comment on the appropriate format for informal hearings and identify the topics for which informal hearings are appropriate, in their Prehearing Conference Statements.

Petitions to Intervene to Become a Formal Party

The Energy Commission's Decision on the **Rice Solar Energy Project** will be based on the official evidentiary record developed at the Evidentiary Hearing. Only formal parties may present evidence and cross-examine witnesses at the Evidentiary Hearing. Anyone with an appropriate interest in this project may file a Petition to Intervene and become a formal party. At the Evidentiary Hearing, a formal party may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with Committee orders, procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties.

The deadline to file a Petition to Intervene in this case was **Monday, September 13, 2010**. Petitions filed after that date may be granted only upon a showing of good cause.

How to Intervene

The Energy Commission's Public Adviser's office will assist any person or organization interested in preparing a Petition to Intervene. For assistance in this process, contact the Public Adviser's office at (916) 654-4489 or (800) 822-6228 or e-mail: **[publicadviser@energy.state.ca.us]**.

Public Participation

Members of the public are welcome to attend and offer comments at the Prehearing Conference and the Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process. Anyone desiring information on how to participate may contact the Public Adviser's office as indicated above.

Comments made after the Evidentiary Hearing may be discussed in the Presiding Member's Proposed Decision (PMPD) or treated and discussed as comments on the PMPD, at the Committee's discretion. Comments made to the Western Area Power Administration, Bureau of Land Management, or the Energy Commission will be shared with the other agencies.

Energy Commission Information

The Energy Commission Public Adviser's Office is available to assist the public in participating in the application review process. For those individuals who require general information on how to participate, please contact the Public Adviser's Office at (916) 654-4489 or (800) 822-6228 or e-mail: [\[publicadviser@energy.state.ca.us\]](mailto:publicadviser@energy.state.ca.us).

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz at (916) 654-5146 or e-mail: [\[lquiroz@energy.state.ca.us\]](mailto:lquiroz@energy.state.ca.us).

Questions of a legal or procedural nature should be directed to Kourtney Vaccaro, the Hearing Officer, at (916) 654-4328 or e-mail: [\[kvaccaro@energy.state.ca.us\]](mailto:kvaccaro@energy.state.ca.us).

Technical questions concerning the Project should be addressed to John Kessler, the Staff Project Manager, at (916) 654-4679, or by e-mail: [\[jkessler@energy.state.ca.us\]](mailto:jkessler@energy.state.ca.us). Media inquiries should be directed to the office for Media and Public Communications at 916-654-4989 or e-mail: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

Information concerning the status of the Project, as well as notices and other relevant documents, may be viewed on the Energy Commission's website at: [\[www.energy.ca.gov/sitingcases/ricesolar/index.html\]](http://www.energy.ca.gov/sitingcases/ricesolar/index.html).

Dated October 13, 2010, at Sacramento, California.



ROBERT B. WEISENMILLER
Commissioner and Presiding Member
Rice Solar AFC Committee



KAREN DOUGLAS
Chairman and Associate Member
Rice Solar AFC Committee



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PLANT PROJECT**

Docket No. 09-AFC-10

**PROOF OF SERVICE
(Revised 8/5/2010)**

APPLICANT

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INTERESTED AGENCIES

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INTERVENORS

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E-mail preferred
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DECLARATION OF SERVICE

I, Maggie Read, declare that on October 13, 2010, I served and filed copies of the attached Prehearing Conference and Evidentiary Hearing Order, dated October 13, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [<http://www.energy.ca.gov/sitingcases/ricesolar>].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- by delivering on this date, for mailing with the United States 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 "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

- sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

OR

- depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 09-AFC-10
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury 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