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October 26, 2007

VIA FIRST CLASS U.S. MAIL

DOCKET
01-AFC-7C
DATE OCT 26 2007
RECD. OCT 26 2007

CALIFORNIA ENERGY COMMISSION
Attention Docket Unit
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: *Russell City Energy Center*
Client-Matter: CH030-001

Greetings:

Laura Schulkind of this office represents the Chabot-Las Positas Community College District, which is filing the enclosed Petition to Intervene and Petition for Reconsideration in the matter of the proposed Russell City Energy Center site, before the California Energy Commission, Docket No. 01-AFC-7C.

Pursuant to my conversation with Sabrina in the Docket Unit today, we are enclosing the originals and twelve (12) copies of the District's Petition to Intervene, Petition for Reconsideration and Stay, the Declaration of Joel L. Kinnamon, and our Proof of Service. We are also filing the documents electronically.

Sincerely,

LIEBERT CASSIDY WHITMORE

Suzanne Solomon

SXS/lg

Enclosures

49115.1 CH030-001

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Attorneys for Chabot-Las Positas Community College District

STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of: RUSSELL CITY ENERGY CENTER	Docket No. 01-AFC-7C **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT'S PETITION:** **(1) TO RE-OPEN THE ADMINISTRATIVE PROCEEDINGS;** **(2) TO RE-OPEN THE EVIDENTIARY RECORD;** **(3) FOR RECONSIDERATION OF ENERGY COMMISSION DECISION; AND** **(4) FOR STAY OF FINAL DECISION**

Dated: October 26, 2007

Liebert Cassidy Whitmore

By: _____
Laura Schulkind
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49110.1 CH030-001

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**PETITION:** **(1) TO RE-OPEN THE ADMINISTRATIVE PROCEEDINGS;** **(2) TO RE-OPEN THE EVIDENTIARY RECORD;** **(3) FOR RECONSIDERATION OF ENERGY COMMISSION DECISION; AND** **(4) FOR STAY OF FINAL DECISION**

Intervenor Chabot-Las Positas Community College District hereby petitions the Commission for a stay and reconsideration of the Commission's Final Decision of September 26, 2007, in the above-referenced matter, and reopening of the administrative proceedings and evidentiary record.

This petition is made on the grounds set out in the attached Memorandum of Points and

☒ Continuation Pages Are Attached

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Authorities, the declaration of Joel L. Kinnamon, and on the pleadings and records on file in this proceeding.

Dated: October 26, 2007

Liebert Cassidy Whitmore

By: _____
Laura Schulkind
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STATE OF CALIFORNIA
State Energy Resources
Conservation And Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF INTERVENOR CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT'S PETITION:** **(1) TO RE-OPEN THE ADMINISTRATIVE PROCEEDINGS;** **(2) TO RE-OPEN THE EVIDENTIARY RECORD;** **(3) FOR RECONSIDERATION OF ENERGY COMMISSION DECISION; AND** **(4) FOR STAY OF FINAL DECISION**

Intervenor Chabot-Las Positas Community College District ("District") is a public entity that governs Chabot College, located within 3 miles of the Russell City Energy Center ("RCEC") site plan. The District hereby petitions for reconsideration and stay of the California Energy Commission's ("Commission") Final Decision of September 26, 2007, approving the

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proposed amendment to the RCEC site plan. Pursuant to Title 20, California Code of Regulations, § 1720, the District also seeks to re-open the administrative proceedings and re-open the evidentiary record in this matter. This petition for reconsideration is supported by the attached Declaration of Joel L. Kinnamon. (This petition is filed concurrently with the District's Petition to Intervene and the Memorandum of Points and Authorities supporting that petition.)

I. Standards for Petition for Reconsideration

Any party may petition for reconsideration of a final decision of the Commission within 30 days after a decision or order is final. Title 20, California Code of Regulations, § 1720(a). The petition for reconsideration must either present new evidence or specify an error in fact or change or error of law, and must explain "why the matters set forth could not have been considered during the evidentiary hearings, and their effects upon a substantive element of the decision." *Id.*

Although the District is not a party, the District is filing a petition to intervene concurrently with this petition for reconsideration. Upon grant of the petition to intervene, the District will have standing to petition for reconsideration.

This petition for reconsideration is timely, because the Commission issued its final decision approving an amendment to the RCEC site plan on September 26, 2007. Final Commission Decision, CEC-800-2007-003-CMF (October 2007) ("Final Decision"). The effective date of a decision is the "the day when the decision or order is docketed, unless the order states otherwise." Title 20, California Code of Regulations, § 1720.4. The Final Order in this case provides that it is effective September 26, 2007.

II. Bases for Request for Reconsideration of Final Decision and Request to Reopen Proceedings

A. The District Has an Interest in the Proposed RCEC Site

The District governs two community colleges in Alameda County--Las Positas College located in Livermore, and Chabot College located at 2555 Hesperian Boulevard, in Hayward, which is located less than 3 miles from the RCEC site. Declaration of Chancellor Joel L. Kinnamon in Support of District's Motion to Intervene and Motion for Reconsideration

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("Kinnamon Decl."), ¶ 2.

The District has been serving the Bay Area for almost 50 years and has a deep interest in the community and its well being. Kinnamon Decl., ¶ 2. Chabot is a public, comprehensive community college that prepares students to succeed in their education, progress in the workplace, and engage in the civic and cultural life of the global community. Kinnamon Decl., ¶ 6; California Education Code § 66700. Chabot furthers student learning and responds to the educational needs of the local population and economy. Kinnamon Decl., ¶ 6. Chabot serves as an educational leader, contributing its resources to the intellectual, cultural, physical, and economic vitality of the region. *Id.*

The Chabot campus serves thousands of community residents on a daily basis. The Chabot student population, alone, is approximately 15,000 students. Kinnamon Decl., ¶ 5. Chabot also has approximately 600 employees. *Id.* In particular, the District notes that it is required by law to recruit, accommodate, and create a safe environment for disabled students and staff. 29 U.S.C. §700 *et seq.*; 34 C.F.R. §100 *et seq.*; California Government Code, § 12940 *et seq.*; Title 5 California Code of Regulations, § 53025(a). Consistent with these duties, the college provides on the Chabot site both a Disabled Student Resource Center, and a Health Center. See Chabot College Master Plan at 93. Thus, the District is particularly concerned that it has not had the opportunity to analyze the potential health impacts on the large number of disabled individuals that Chabot proudly counts among its students and staff, and who are entitled to participate in campus life on an equal footing with nondisabled students and staff.

Chabot College operates on a 94-acre campus which includes multiple buildings for classrooms, laboratories, a cafeteria, administrative and student services offices, a bookstore, a Learning Resource Center, a 1,432-seat Performing Arts Center, a television studio, a radio station, planetarium, art gallery, and gymnasium. Kinnamon Decl., ¶ 3. The college also uses a significant amount of outdoor space including walkways, open spaces, parks, playground areas and athletic fields. *Id.* Further, many Campus facilities serve not only students, but the community at large. For example, the Performing Arts Center hosts both student and community presentations; local teams use the athletic fields and sports facilities, and the Children's Center

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provides day care services to infants and toddlers. *Id.* Additionally, the community colleges of California are each mandated to create and maintain a "civic center" where: "the citizens, Camp Fire Girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations" may meet. California Education Code § 82537. In short, Chabot is an open campus that attracts thousands of community members to its site.

Further, as set out more fully in the accompanying Petition to Intervene, one of Chabot College's lea duties and core values is the creation and maintenance of a safe college campus. Therefore it has a significant interest in local projects with the potential to create adverse health effects on the campus. Kinnamon Decl., ¶ 4. Consistent with that core value, the College and District have signed onto the American College and Universities Presidents' commitment to developing the internal infrastructure and planning to become climate neutral as soon as possible. *Id.*

For all of these reasons, the District has a clear interest in the RCEC site plan.

B. The Commission Did Not Notify the District of RCEC's Application

The Commission was required to provide notice of RCEC's application to any "...state, regional, or local agency which has been identified as having a potential interest in the proposed site and related facility, and shall require analyses, comments, and recommendations thereon." Title 20, California Code of Regulations § 1714(c). Given the District's key role in the community, its responsibility for approximately 15,000 students and 600 employees on a campus less than 3 miles from the proposed site, the District was clearly entitled to notice.

Nevertheless, the Commission provided no notice whatsoever to the District of RCEC's amendment application, depriving it of a meaningful and timely opportunity to be heard. Kinnamon Decl., ¶ 8.

C. The Commission Did Not Solicit the District's Input on RCEC's Application

Equally disturbing as the failure to provide notice, the Commission failed to solicit analyses, comments and recommendations from the District, as required pursuant to Title 20, California Code of Regulations § 1714(c). Kinnamon Decl., ¶ 8. The requirement to notify and solicit input from affected agencies ensures that the Commission takes into account the concerns

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of local agencies and the people they represent when it evaluates proposed site plans.

The failure to notify and solicit input from the District is particularly troubling considering that community colleges generally—and Chabot College specifically—serve historically disenfranchised populations. Chabot's student body is "majority-minority," with 75% of the students from race-ethnicity groups other than non-Hispanic single-race whites. Kinnamon Decl., ¶ 9. The student population is 14% African American, 18% Asian American, 9% Filipino, 22% Latino, and 25% white, with the remaining population either unknown or comprised of other heritage groups. *Id.* Over one third of the students are in the first generation of their family to attend college. *Id.* Further, students attending Chabot struggle financially, with 57% of students reporting low, or very low, household income levels based on federal poverty rate guidelines. *Id.* Given these demographics, failure to give proper notice to the District of these proceedings has not only deprived the District—as a local governmental agency—the right and opportunity to be heard; it has deprived a largely non-white and impoverished community an important voice in these proceedings—through their local community college district.

The District has concerns regarding the RCEC site plan's potential environmental, health and safety risks. The Commission's procedural errors have prevented the District from having enough notice and time to sufficiently examine these concerns, which include: the impact of air pollution from the RCEC on Chabot students and employees, given that Chabot College is in the area identified as most highly impacted by the proposed site; the site's effect on Chabot College's staff and student recruitment; and the potential impact on the District's master plan. Kinnamon Decl., ¶ 10.

Because of the Commission's failure to solicit the District's comments, analyses and recommendations regarding the site plan, the Commission's findings were fundamentally flawed. While some of the District's concerns may overlap with those that were presented by other agencies, the concerns are not identical, because Chabot College is so close to the proposed site and plays such a unique and significant educational and economic role in the community. The Commission cannot possibly anticipate what commentary and analysis the District would have offered to the proceedings. The District has not had an adequate amount of time to consider these

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issues in full. The District deserves no less than a full appraisal of these issues and the confidence that the Commission's approval of a new energy facility was made after a thorough evaluation of all possible evidence and analysis.

D. The Commission's Failure to Notify the District or Seek the District's Input Is An Error of Law Justifying Reconsideration

The failure to notify the District of RCEC's amendment application and the resulting flaws in the findings supporting the Commission's Final Decision constitute an "error of law" requiring the Commission to re-open the administrative proceedings and evidentiary record to consider additional comments, analyses and recommendations from the District.

In addition, the Commission committed other legal errors as outlined in the Petition for Reconsideration recently filed by Intervenor the County of Alameda. The District hereby incorporates those portions of the County's petition articulating those legal errors (from page 6, line 25 through page 11, line 20).

For these reasons, the District requests that the Commission reopen the administrative proceedings and the evidentiary record and then reconsider RCEC's amendment application based on a review of a complete evidentiary record.

III. The Commission Must Stay Its Final Decision to Allow the District Additional Time to Prepare for a Re-Opened Administrative Proceeding

The District also requests that the Commission stay its Final Decision, in order to allow the District to prepare comments, analyses and recommendations for a re-opened administrative proceeding and evidentiary record. Failing to stay the Final Decision would once again deny the District the necessary time to prepare the comments, analyses and recommendations. The District requests that the length of the stay should, at a minimum, equal the amount of time afforded to other public agencies that received notice in this proceeding.

IV. Conclusion

For the reasons stated above, the Chabot-Las Positas Community College District respectfully requests that the Commission stay its Final Decision regarding the proposed RCEC site, re-open the administrative proceedings and the evidentiary record, allow the District to present its analyses, comments and recommendations, and then reconsider the RCEC application

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on a complete record.

Dated: October 26, 2007

Liebert Cassidy Whitmore

By: _____
Laura Schulkind
Attorneys for Chabot-Las Positas Community College District

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**PETITION BY CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT FOR INTERVENTION AS AN AGENCY**

Dated: October 26, 2007

Liebert Cassidy Whitmore

By: _____
Laura Schulkind
Attorneys for Chabot-Las Positas Community College District

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STATE OF CALIFORNIA
State Energy Resources
Conservation And Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**PETITION FOR INTERVENTION AS AN AGENCY**

1. The following agency hereby petitions to intervene in the above-captioned proceeding:

Chabot-Los Positas Community College District

2. Petitioner will be represented in this proceeding by:

Laura Schulkind, Liebert Cassidy Whitmore

153 Townsend Street, Suite 520, San Francisco, CA 94107

3. Petitioner is not a member of a group or organization already a party to this proceeding.

4. Petitioner has an interest in this proceeding that is articulated in the attached Memorandum of Points and Authorities.

5. Petitioner understands that it will receive all relevant documents in this proceeding and that it will be responsible for supplying other parties with information and documents properly requested, as well as complying with Orders of the presiding Committee.

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6. Petitioner certifies that it has served a copy of this Petition upon the Applicant's attorney-of-record in this proceeding.

Dated: October 26, 2007

Liebert Cassidy Whitmore

By: _____
Laura Schulkind
Attorneys for Chabot-Las Positas Community College District

49083.1 CH030-001

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT'S PETITION FOR INTERVENTION**

The Chabot-Las Positas Community College District ("District") is a public entity that governs Chabot College, located within 3 miles of the Russell City Energy Center ("RCEC") site plan. Cal. Educ. Code § 66700. The District hereby petitions to intervene in this proceeding pursuant to Title 20, California Code of Regulations, sections 1207 and 1712. This petition is filed concurrently with the District's Petition for Reconsideration and Stay of the California Energy Commission's ("Commission") Final Decision of September 26, 2007, approving the proposed amendment to the RCEC site plan. Pursuant to Title 20, California Code of Regulations § 1720, the District also seeks to re-open the administrative proceedings and re-open the evidentiary record in this action.

As set forth more fully in the District's accompanying Petition for Reconsideration and the Declaration in support prepared by Chancellor Kinnamon, the District is a public agency that plays a significant educational and economic role in the community that will be most greatly impacted by the RCEC proposed site. Kinnamon Decl., ¶¶ 2-7; see California Education Code §66700. With thousands of community members coming to the Chabot campus daily for education, employment and community activities, the District is deeply concerned how the placement of a power plant—less than three miles away—will impact the Chabot environment. Kinnamon Decl., ¶¶ 2-7.

Additionally, it is Chabot College's legal duty to create and maintain a safe college campus—which includes an environmentally safe campus—for its students, employees and members of the public. See, e.g., Labor Code §§ 6300 et seq.; Health & Safety Code §§ 105400-105430; Public Resources Code §§ 21157-21157.7. In support of this duty, one of Chabot's core values (as reflected in the Master Plan which it is statutorily required to maintain) is creating a safe campus. Kinnamon Decl., ¶ 4; Chabot College Master Plan 2005-2015 (2005) at p. 11; California Education Code § 70901(b); Title 5, California Code of Regulations §51008. Further, consistent with this core value, the College and District have signed onto the American College and Universities Presidents' commitment to developing the internal infrastructure and planning to become climate neutral as soon as possible. Kinnamon Decl., ¶ 4. Thus, the District has a strong interest in local projects with the potential to thwart its legal obligations, undermine its Master Plan, and create adverse health effects for those who come onto its Chabot campus.

IV. The District Has Good Cause To Intervene At This Stage of the Proceedings

Title 20, California Code of Regulations section 1714(c), requires the Commission to notify any "...state, regional, or local agency which has been identified as having a potential interest in the proposed site and related facility." It is extraordinary that, given this standard, the Chabot Las Positas Community College District received no such notice. Kinnamon Decl. ¶ 8. Not only does the District play a significant educational and economic role in the community that will be impacted by the proposed plant site—*the proposed site is less than three miles from its 15,000-student Chabot campus.* Thus, this failure of notice violated the Commission's duties

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and procedures, precluded the District from acting sooner, and constitutes good cause for the District to seek intervention at this time, rather than within the time frame established by Title 20 section 1207(b).

Equally troubling, in addition to not providing notice to the District, the Commission failed to solicit analyses, comments and recommendations from the District, as was required pursuant to Title 20, California Code of Regulations, section 1714(c). Kinnamon Decl., ¶ 8. This requirement ensures that the Commission takes into account the concerns of local agencies when it evaluates proposed site plans. As set forth more fully in the District's Petition for Reconsideration, filed concurrently with this petition, the District has grave concerns regarding the RCEC site plan's potential environmental, health and safety risks. The Commission's procedural errors have prevented the District from having enough notice and time to sufficiently examine these concerns and provide the Commission with potentially critical information that should inform its decision.

For these reasons, good cause exists for the District to intervene in this matter now.

IV. Conclusion

For the foregoing reasons, the District has good cause to intervene and respectfully requests that this petition be granted.

Dated: October 26, 2007

Liebert Cassidy Whitmore

By: _____
Laura Schulkind
Attorneys for Chabot-Las Positas Community College District

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**DECLARATION OF CHANCELLOR JOEL L. KINNAMON IN SUPPORT OF INTERVENOR CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT'S MOTION TO INTERVENE AND MOTION FOR RECONSIDERATION AND STAY**

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I, Joel L. Kinnamon, declare as follows:

1. I am the Chancellor of the Chabot-Las Positas Community College District ("District"), which seeks to intervene in this proceeding, and which has filed a Petition for Reconsideration of the California Energy Commission's ("Commission") Final Decision of September 26, 2007 approving the Russell City Energy Center ("RCEC") site plan. I make this declaration in that capacity, and if called upon to testify, I could and would competently testify to the following facts from my own personal knowledge or from knowledge obtained through a review of original and true and correct copies of documents.

2. The District has been providing education and employment opportunities to Bay Area residents for over 44 years. The District has deep ties to, and a strong interest in, the well being of the community we serve . Currently, the District governs two community colleges in

Alameda County--Las Positas College located in Livermore, and Chabot College located at 2555 Hesperian Boulevard, in Hayward. I am informed and believe that Chabot College is located less than 3 miles from the RCEC site.

3. Chabot College operates on a 94-acre campus. The Campus includes multiple buildings for classrooms, laboratories, a cafeteria, administrative and student services offices, a bookstore, a Learning Resource Center, a 1,432-seat Performing Arts Center, a television studio, a radio station, planetarium, art gallery, and gymnasium. The college also utilizes a significant amount of outdoor space including walkways, open spaces, parks, playground areas and athletic fields.

4. As stated in the Chabot College Master Plan, one of our core values is the creation and maintenance of a safe college campus. Consistent with that core value, the College and District have signed onto American College and Universities Presidents commitment to create environmentally responsible campuses. Specifically the District and College have committed to developing the internal infrastructure and planning to become climate neutral as soon as possible.

5. The Campus serves thousands of community residents on a daily bass. The Chabot student population, alone, is approximately 15,000 (4,000 full-time and 11,000 part-time). Indeed, Chabot serves about one quarter of the high school graduates in its service area and impacts, to some extent, nearly every household. Further, many of our facilities serve not only our students, but the community at large. For example the Performing Arts Center hosts both student and community presentations; our athletic fields and sports facilities are utilized by local teams of young boys and girls; and our Children's Center provides day care services to infants and toddlers. Last but not least, Chabot has approximately 600 employees.

6. Chabot College plays a significant educational and economic role in the community. Chabot is a public, comprehensive community college that prepares students to succeed in their education, progress in the workplace, and engage in the civic and cultural life of the global community. The college furthers student learning and responds to the educational needs of our local population and economy. The college serves as an educational leader, contributing its resources to the intellectual, cultural, physical, and economic vitality of the

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region. The college provides opportunities for intellectual enrichment and physical well-being of all community members who can benefit.

7. In 2003, the Chabot-Las Positas Community College District contracted with an outside company to analyze the economic impact of Chabot College on its local service area, the state, and its students. CCbenefits, Inc., using a comprehensive economic mode, made four key conclusion:

--Chabot College stimulates the regional economy;

--Chabot leverages taxpayer dollars for social benefits;

--Chabot generates a return on government investment; and

--Chabot increases individuals' earning potential.

8. Despite the District's key role in the community that will be impacted by the RCEC plant siting, obvious interests in that siting, and legal rights as an interested governmental agency, the District did not receive notice from the Commission of RCEC's amended application. The Commission did not request the District's analyses, comments and/or recommendations regarding the RCEC approval. As such, the District has not had the opportunity to provide such input—to the detriment of the District and the community it serves.

9. I am especially concerned by this oversight, given that community colleges generally—and Chabot College specifically—serve historically disenfranchised populations. Chabot's student body is "majority-minority," with 75% of the students from race-ethnicity groups other than non-Hispanic single-race whites. The student population is 14% African American, 18% Asian American, 9% Filipino, 22% Latino, and 25% white, with the remaining population either unknown or comprised of other heritage groups. Over one third of the students are in the first generation of their family to attend college. Further, students attending Chabot struggle financially, with 57% of our students reporting household income levels of low or very low, based on federal poverty rate guidelines. Given these demographics, failure to give proper notice to the District of these proceedings has not only deprived the District—as a local governmental agency—the right and opportunity to be heard; it has deprived a largely non-white and impoverished community an important voice in these proceedings—through their local

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community college district.

10. Based upon the limited review of information I have been able to conduct at this point, it is my belief that—if given the opportunity to analyze the data and provide appropriate input on this issue—the District would be able to offer evidence that:

a. The Chabot Campus presents a site with a high concentration of individuals within 3 miles of the proposed site;

b. The Chabot Campus is in the area identified as most highly impacted by the proposed siting;

c. Placement of the plant at the proposed site would likely negatively impact the health and welfare of Chabot students, staff and community members;

d. Placement of the plant at the proposed site would likely negatively impact Chabot's student and staff recruitment efforts, and thus its educational and economic contributions to the community.

e. Placement of the plant at the proposed site is contrary to the goals and values of the College and District, as set out in the Master Plan.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 25, 2007 at Pleasanton, California.

Dr. Joel L. Kinnamon
Chancellor

49097.1 CH030-001

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	Docket No. 01-AFC-7C
RUSSELL CITY ENERGY CENTER	**PROOF OF SERVICE**

DECLARATION OF SERVICE

I am employed at Liebert Cassidy Whitmore, over the age of eighteen and not a party to the within cause. My business address is 153 Townsend Street, Suite 520, San Francisco, CA 94107. I am familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service the same day in the ordinary course of business. On this date, I served the foregoing:

1. Petition for Intervention and attached Memorandum of Points and Authorities;
2. Petition for Reconsideration and attached Memorandum of Points and Authorities;
3. Declaration of Joel L. Kinnamon; and
4. Proof of Service

☒ **Check box if continuation pages are attached.**

LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
153 Townsend Street, Suite 520
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by placing a true and correct copy of said documents in envelopes in a place for collection and mailing on this date following ordinary business practices and addressed to the persons listed in the attached Proof of Service List

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Francisco, California on October 26, 2007

Lynette Gaddi

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