

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

DOCKET	
04-AFC-1	
DATE	SEP 23 2004
RECD.	SEP 23 2004

In the Matter of)
 Application for Certification Application of the)
 San Francisco Electric Reliability Project)
 (SFERP))
 _____)

Docket No. 04-AFC-1

**APPLICANT'S OBJECTIONS IN RESPONSE TO THE FIRST SET OF
DATA REQUESTS FROM ROBERT SARVEY**

Pursuant to Rule 1716 of the California Energy Commission's (CEC) Rules of Practice and Procedure, the City of San Francisco ("City" or "Applicant") submits the following objections in response to the first set of data requests from Robert Sarvey regarding the San Francisco Electric Reliability Project (SFERP). The data requests are not numbered. The requests have not yet been received by counsel for the City, but were docketed by the Commission docket office on September 13, 2004, and will be treated by the City as though they were received by the City on that date.

Specific requests:

Request 1. The Applicant the City and County of San Francisco have answered several data request where information to those data requests is supplied to the author of the data requests only. Intervenor requests that all answers to data request be served on the entire service list as is customary. Intervenor does not wish to contact the Applicant every time a data request is answered and information is supplied to other parties. At the present time documents which have been sent to SF Power and CARE and some documents given to staff have not been served on all parties. Intervenor request that those documents be supplied.

Objection: The City objects to the request to the extent that it requests that all documents supplied to any party in connection with a data request be supplied to the entire service list. The City is cognizant that rule 1716 (i) provides that "[a]ll information requests and responses shall be served on all parties to the proceeding by the requesting and responding parties respectively . . ." The City has complied and will continue to comply with this requirement with regards to all data responses and documents which have been provided in response to data requests to which the City has not entered an objection. The only documents that the City has refrained from serving on the entire service list are documents that it provided in response to data requests from San Francisco Community Power Co-op (SFCP) and Californians for Renewable Energy, Inc.

(CARE) to which the City objected on a variety of grounds, including that the requests were unduly broad and burdensome and irrelevant. To the extent Mr. Sarvey is requesting that he and all parties on the service list be provided with copies of documents that the City is providing notwithstanding entering objections on the grounds of being unduly broad and burdensome and irrelevant, the City hereby objects to Mr. Sarvey's request on the same grounds. The City notes that the burden is further exacerbated to the extent that the City is required to supply copies of a large number of documents, many of them irrelevant or very marginally relevant to this proceeding, to all parties on the service list irrespective of whether or not these parties have indicated any interest in the documents. The City notes moreover that the CARE request was also made pursuant to the California Public Records Act and some of the documents provided to CARE are provided pursuant to the California Public Records Act without regard to the discovery rules applicable in this proceeding.

As to the SFCP and CARE requests to which the City objected, notwithstanding the objection, the City agreed to identify key documents and to provide them to the requester. In its responses providing the documents, the City went further and offered to provide copies of the documents to any party that asks for them and served this response and offer on the entire service list. The City has promptly complied with any request of a party to obtain copies of documents supplied to the Coop and CARE including those of Mr. Sarvey who to date has received copies of all the documents supplied to the Coop and CARE.

Thus, in responding to the requests of the SFCP and CARE, the City has sought to provide to interested parties the information they seek without engaging in aggressive litigation to limit the scope of discovery, while at the same time preserving legitimate objections and limiting the burden of this cooperative approach on the City. In this spirit, and without waiving its objections set forth above, the City is willing to treat Mr. Sarvey's request as an ongoing request to be copied on any documents supplied to the SFCP and CARE pursuant to the discovery rules applicable in this proceeding, and to comply with that request.

Request 2. Intervenor also requests the following submittals from the docket list please provide the following documents unless they are available on line. . . .

Objection: The documents in question are public documents that Mr. Sarvey can obtain directly from the California Energy Commission. Notwithstanding and without waiving the objection, the City will supply Mr. Sarvey with the two documents on the list that are "to or from" the City: document numbers 31422, 31383, 31153, 31152, and 31327.

Respectfully submitted,

DENNIS J. HERRERA
CITY ATTORNEY
THERESA L. MUELLER
JEANNE M. SOLÉ
DEPUTY CITY ATTORNEYS

Attorneys for City and County of San Francisco

By: 

Jeanne M. Solé
Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
(415) 554-4619 (Telephone)
(415) 554-4763 (facsimile)
jeanne.sole@sfgov.org

Energy Resources Conservation
and Development Commission

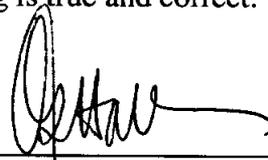
Application for Certification for the)
SAN FRANCISCO ELECTRIC RELIABILITY)
PROJECT (SFERP))
_____)
)

Docket No. 04-AFC-1

PROOF OF SERVICE

I, Arlene Hall, declare that on September 23, 2004, I deposited copies of the attached **APPLICANT'S OBJECTIONS IN RESPONSE TO THE FIRST SET OF DATA REQUESTS FROM ROBERT SARVEY** in the United States mail in San Francisco, California, with first-class postage thereon fully prepaid and addressed to all parties on the attached service list.

I declare under the penalty of perjury that the foregoing is true and correct.



Arlene Hall

SERVICE LIST

04-AFC-1

DOCKET UNIT

Send the original signed document plus 12 copies to the following address:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 01-AFC-17
DOCKET UNIT, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

In addition to the documents sent to the Commission Docket Unit, also send individual copies of all documents to:

APPLICANT

Jesse Blout - Economic Development
Director
Office of the Mayor
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102-4641

Applicant Project Manager

Karen Kubick, P.E.
San Francisco Public Utilities Commission
General Manager's Office
1155 Market St., 11th Floor
San Francisco, CA 94103

APPLICANT'S CONSULTANTS

Steve De Young
De Young Environmental Consulting
4155 Arbolado Drive
Walnut Creek, CA 94598

John Carrier
CH2MHill
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833-2943

COUNSEL FOR APPLICANT

Jeanne Sole
San Francisco City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlet Place
San Francisco, CA 94102-4682

INTERESTED AGENCIES

Emilio E. Varanini, III, General Counsel
California Power Authority
910 P Street, Suite 142A
Sacramento, CA 95814

Independent System Operator
Jeffery Miller
151 Blue Ravine Road
Folsom, CA 95630

Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814

INTERVENORS

Jeffrey S. Russell
Vice President, West Region Operations
Mirant California, LLC
1350 Treat Blvd., Suite 500
Walnut Creek, CA 94597

Michael J. Carroll
Latham & Watkins LLP
650 Town Center Drive, Suite 2000
Costa Mesa, CA 92626

Potrero Boosters Neighborhood Asso.
Dogpatch Neighborhood Asso
Joseph Boss
934 Minnesota Street
San Francisco, CA 94107

Robert Sarvey
501 West Grantline Road
Tracy, CA 95376

Greenaction for Health &
Environmental Justice
C/o Marc Harrison
Karl Krupp
One Hallidie Plaza #760
San Francisco, CA 94706

Californians for Renewable Energy, Inc.
Michael E. Boyd, President
5439 Soquel Drive
Soquel, CA 95073

Lynce Brown
24 Harbor Road
San Francisco, CA 94124