



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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APPLICATION FOR CERTIFICATION FOR THE
SES SOLAR TWO PROJECT

DOCKET No. 08-AFC-5

COMMITTEE ORDER DENYING REQUEST OF INTERVENOR CURE TO DELAY DATA RESPONSE WORKSHOP

On October 8, 2008, the Application for Certification (AFC) was deemed data-adequate for the twelve-month review process consistent with Public Resources Code section 25540.6. At that time, a 180-day period within which the parties could exchange data requests began pursuant to California Code of Regulations, Title 20, section 1716(e).

The following chronology is germane to this matter:

- December 1, 2008: CURE is granted intervenor status.
- March 4, 2009: Committee issues *Revised Scheduling Order* calling for second and last workshop to take place on March 23, 2009.
- March 23, 2009: Date in *Revised Scheduling Order* for second and last workshop (did not take place on that date; noticed instead for May 7, 2009).
- April 6, 2009: Final day to serve data requests.
- April 6, 2009: CURE serves its data requests on Applicant.
- April 21, 2009: Energy Commission staff serves notice of workshop to take place on May 7, 2009, for the purpose of discussing Applicant's responses to the BLM and Energy Commission staff's data requests received since the December 18, 2008 data response workshop.
- April 27, 2009: CURE files letter objecting to the May 7, 2009 date for the workshop.
- May 7, 2009: Applicant's responses to CURE data requests are due.
- May 7, 2009: Scheduled date for workshop.

As may be seen from the above chronology, CURE could never have had a reasonable expectation that there would be a workshop at which responses to its data requests could be discussed. CURE served its data requests on April 6, after the date for the second and final workshop set forth in the *Scheduling Order*, but before April 21 when Staff served notice of the May 7 workshop.

Nonetheless, CURE now objects to the May 7, 2009 workshop, because Applicant's responses to CURE's data requests are due on May 7th and thus could not be discussed at the May 7th workshop.

CURE could never have had an expectation of a workshop to discuss Applicant's responses to its data requests because no workshops after March 23, 2009 are shown on the *Revised Scheduling Order* issued March 4, 2009. Nor did CURE ever request that the Committee schedule such a workshop, although CURE easily could have made such a request. The *Revised Scheduling Order* clearly showed that as of the date the *Order* was issued there were no workshops scheduled after March 23, 2009, and that therefore responses to any data requests served thereafter by CURE would not be due in time to be discussed at that workshop.

SES Solar Two is a renewable energy project and is thus entitled to priority pursuant to Governor Schwarzenegger's Executive Order S-14-08, which establishes a 33 percent Renewables Portfolio Standard by 2020, and directs the Energy Commission to work collaboratively with agencies to *expedite* renewable energy permitting. The Committee is therefore reluctant to accommodate any request by a party that would cause delay to the proceeding, particularly where there appears to be no good cause for the request.

The Committee requests that Applicant make a good faith effort to produce its responses to CURE's data requests, to the extent possible, in advance of the May 7, 2009 workshop. The Committee also suggests that Staff consider, in the exercise of its discretion under California Code of Regulations, Title 20, section 1718(a), whether scheduling a future workshop to discuss those responses would be appropriate, balancing the policy expressed in the Executive Order and the benefits of having a full airing of the issues.

CURE's request to postpone the May 7, 2009 workshop is **DENIED**.

Dated: April 30, 2009, at Sacramento, California.

Original Signed By:
JEFFREY D. BYRON
Commissioner and Presiding Member
SES Solar Two AFC Committee

Original Signed By:
JULIA LEVIN
Commissioner and Associate Member
SES Solar Two AFC Committee