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October 3, 2011

Commissioner and Presiding Member Karen Douglas
Chairman Robert B. Weisenmiller
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET	
11-CAI-02	
DATE	OCT 03 2011
RECD.	OCT 03 2011

Re: In the Matter of Complaint Against Ormat Nevada, Inc. Brought by California Unions for Reliable Energy, 11-CAI-02

Dear Commissioner Douglas and Chairman Weisenmiller:

We write in response to Ormat and Imperial County's September 30th letter, which requests that the Committee "expedite" consideration of Ormat's September 26, 2011 oral motion to dismiss CURE's Complaint and Request for Investigation ("Complaint"). The Committee already directed Ormat to brief its motion by October 12 and the parties to reply by October 19 concurrently with briefing the jurisdictional issues in this proceeding. CURE urges the Committee to direct all parties to proceed in accordance with the established schedule.

The Committee's allowance of briefing on Ormat's motion, rather than outright denial, is more than reasonable. First, this is Ormat's third attempt to dismiss the Complaint before the merits have been reached in this already expedited proceeding. Second, the Committee already found that CURE's Complaint was sufficient. Third, this proceeding already moved on to the evidentiary phase in which CURE introduced a significant body of evidence to support the allegations in the Complaint, including documents authored by Ormat and the direct testimony of two expert witnesses. Finally, thorough briefing is necessary in this case. Ormat provides no coherent legal authority and argument in its "oral motion" to dismiss or in Ormat's most recent letter. Also, thorough briefing is necessary since the parties exhibit substantial disagreement regarding the facts and applicable law and regulations for determining jurisdiction.

Karen Douglas
Robert B. Weisen
October 3, 2011
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CURE urges the Committee either to deny Ormat's motion to dismiss or to allow Ormat to brief its motion by October 12th. Ormat argues that postponing the briefing and ruling forces the parties to incur the expense and effort of full briefing and effectively denies the motion. However, the parties *already* incurred the bulk of the expenses and effort in this proceeding by preparing for and participating in an expedited evidentiary hearing. Furthermore, CURE is confident that, following briefing, the Committee will fairly rule on Ormat's motion.

CURE looks forward to briefing its case, with citations to the record evidence and law, pursuant to the schedule established by the Committee at the September 26th evidentiary hearing.

Sincerely,

/s/

Elizabeth Klebaner
Tanya A. Gulesserian

EK:vs
cc: POS list

DECLARATION OF SERVICE

I, Valerie Stevenson, declare that on, October 3, 2011, I served and filed copies of the attached **LETTER TO COMMISSIONER AND PRESIDING MEMBER KAREN DOUGLAS AND CHAIRMAN ROBERT B. WEISENMILLER**, dated October 3, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, 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/proceedings/11-cai-02/index.html>.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- √ Served electronically to all e-mail addresses on the Proof of Service list;
- √ Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with firstclass 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 service preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- √ by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method);

OR

by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT

Attn: Docket No. 11-CAI-02

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
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mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California 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.

/s/

Valerie Stevenson



**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**

***IN THE MATTER OF COMPLAINT AGAINST
ORMAT NEVADA, INC. BROUGHT BY
CALIFORNIA UNIONS FOR RELIABLE ENERGY***

**Docket No. 11-CAI-02
(Revised 9/12/11)**

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