

ELLISON, SCHNEIDER & HARRIS L.L.P.

CHRISTOPHER T. ELLISON
ANNE J. SCHNEIDER
JEFFERY D. HARRIS
DOUGLAS K. KERNER
ROBERT E. DONLAN
ANDREW B. BROWN
MARGARET G. LEAVITT, OF COUNSEL

ATTORNEYS AT LAW
2015 H STREET
SACRAMENTO, CALIFORNIA 95814-3109
TELEPHONE (916) 447-2166 FAX (916) 447-3512

JEDEDIAH J. GIBSON
LYNN M. HAUG
PETER J. KIEL
CHRISTOPHER M. SANDERS
WILLIAM W. WESTERFIELD III
GREGGORY L. WHEATLAND

DOCKET	
01-AFC-7C	
DATE	MAY 23 2007
RECD.	MAY 23 2007

May 23, 2007

Commissioner John Geesman, Presiding Member Siting Committee
Commissioner Jeffrey Byron, Associate Member Siting Committee
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Dear Commissioners:

Russell City Energy Company, LLC (Project Owner) is writing to request that the Committee reschedule the Status Conference for the Russell City Energy Center Amendment #1. The Status Conference is currently set for June 6, 2007. In lieu of a Status Conference on June 6, we request that the Committee notice a Prehearing Conference and Evidentiary Hearing (as necessary) for the RCEC Amendment for June 18 – ten days after the Staff is scheduled to release a complete Staff Assessment for the RCEC Amendment.¹

There are four reasons for our request to notice a Prehearing Conference and Evidentiary Hearing (as necessary) for the RCEC Amendment, all of which are consistent with the public interest in ensuring that this project will be on line providing reliability benefits by June of 2010.

First, we observe that the June 6 date set by the Committee renders moot our previous request to expedite publication of the Staff Assessment. The Staff has informed the Committee that it will not complete the Staff Assessment until June 8, 2007. In our second Status Report, the Project Owner had asked that the Staff Assessment be issued no later than May 25, 2007. Unfortunately, by setting the Status Conference for June 6, just two days before the Staff Assessment will be issued, the Committee effectively negated our request to expedite the preparation of the Staff Assessment.

Second, the RCEC Project Owner wants to do everything possible to ensure that the Staff Assessment is issued no later than June 8. We are concerned that the scheduling of a Status Conference in Hayward on June 6, which will require considerable time and effort for the Staff to prepare for and attend, may delay the issuance of the Staff Report scheduled for release just two days later. Given the Staff's limited resources, until the Staff Assessment is issued, the Applicant would prefer that all available Staff resources be devoted to completion of the Staff

¹ We express no opinion regarding the Status Conference for the Eastshore Project which is scheduled for the same date.

May 23, 2007

Page 2

Assessment. By rescheduling the RCEC Status Conference until after June 8, Staff resources can be conserved and issuance of the Staff Assessment can best be assured.

In the same vein, we would also request that the Committee relieve Staff of the obligation of responding to our Status Update by June 1. Because the dates proposed in our Status Report will be moot by the time the Staff responds to the Status Update, we would prefer Staff resources be devoted to completing the Staff Assessment rather than responding to a moot request.

Third, a Prehearing Conference will be more productive and informative following release of the Staff Assessment rather than preceding it. Once the Staff Assessment is issued, the parties and the Committee will be able to readily determine whether there are any contested or unresolved issues. The Committee will be able to determine whether evidentiary hearings are required, or whether it can proceed directly to preparing a proposed order, as it did for the Inland Empire Energy Center project. A Status Conference prior to the issuance of a complete Staff Assessment will be much less informative, because the Committee and the parties will necessarily have to speculate regarding the status of the issues and future course of the proceeding

Fourth, a Status Conference for the RCEC Amendment that is consolidated with the Eastshore project could be the catalyst for further substantial delays of the RCEC Amendment. The RCEC and Eastshore are separate and distinct projects. For the RCEC, as the Staff has reported, there are very few areas of disagreement between the Staff and Applicant. There have been no significant public or agency comments on Part 1 of the Staff Assessment. Furthermore, the Bay Area Air Quality Management District did not receive any public or agency comments during the public comment period on the Preliminary Determination of Compliance for the RCEC Amendment, meaning the FDOC should be issued soon without any significant changes.

The RCEC Amendment could be substantially prejudiced by the introduction of matters involving an application for a completely different project, outside the record of our proceeding and not relevant to the Amendment of our license. The Committee has the ability to completely avoid this potential prejudice by simply keeping these individual adjudications separate and avoiding the unprecedented effort of trying to synchronize an Amendment and an application sponsored by unrelated applicants.

The Project Owner is committed to providing the Committee with the assistance it seeks for its consideration of alternatives for the Eastshore project. In that connection, we recognize that the Committee has asked the Project Owner to provide the Committee with additional information in the Eastshore Status Conference regarding the viability of locating both the Russell City and Eastshore projects at one site. We will provide the requested assistance. Specifically, we will address the issue in a written submission prior to the June 6 Eastshore Status Conference. In addition, we will make a RCEC representative available to address this matter on June 6, if the Committee so desires. We do not, however, believe that this question is

May 23, 2007
Page 3

relevant to the RCEC Amendment, and we would strenuously object to the further delay of our amendment and the associated potential prejudice solely for the purpose of evaluating alternatives to the Eastshore project.

In conclusion, we wish to reiterate what we said about the schedule for the RCEC Amendment at the initial Informational Hearing and in our most recent Status Update #2. The Project Owner has entered into a long-term Power Purchase Agreement (PPA) with PG&E, and is required by the PPA to begin construction on a schedule to support the commercial operation date of June 1, 2010. For the Project Owner to meet this deadline, the Commission must make a timely decision on the Amendment. The greater the delay beyond June 2007, the greater is the risk and difficulty of meeting the June 1, 2010 commercial operation date.

For that reason, the Project Owner respectfully requests that the Committee reschedule the June 6 RCEC Status Conference to a June 18 Prehearing Conference and Evidentiary Hearing (if necessary).

Sincerely,



Greggory L. Wheatland
Ellison, Schneider & Harris L.L.P.
Attorneys for Russell City Energy Company, LLC

GLW/kam

cc: Service List

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

Amendment to the Application for Certification of
the Russell City Energy Center Project

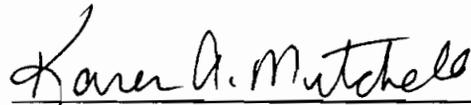
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Docket No. 01-AFC-7C

PROOF OF SERVICE

I, Karen A. Mitchell, declare that on May 23, 2007, I served the attached letter by electronic mail or, if no e-mail address was provided, by United States mail at Sacramento, California, addressed to each person shown on the attached service list.

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



Karen A. Mitchell

SERVICE LIST
01-AFC-7C

Michael A. Argentine, Director
Project Development
Calpine Corporation
104 Woodmere Road
Folsom, CA 95630

Marianna Isaacs, Admin. Mgr.
Calpine Corporation
3875 Hopyard Road, Suite 345
Pleasanton, CA 94588

Doug Davy
Senior Project Manager
CH2M HILL
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833

Larry Tong
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605-0381

Bay Area Air Quality Management District
Weyman Lee, PE
939 Ellis Street
San Francisco, CA 94109

Mark Taylor
Field Supervisor
East Bay Regional Park District
3050 West Winton Ave.
Hayward, CA 94545

Alex Ameri, P.E.
Deputy Director of Public Works
777 "B" Street
Hayward, CA 94541-5007

Larry Tobias
California Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630

Bob Nishimura
Bay Area Air Quality Management Dist.
939 Ellis St.
San Francisco, CA 94109

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

Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Parker Ventures, LLC
c/o Reneon & Roberts
Ten Almaden Blvd., Suite 550
San Jose , CA 95113