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College District

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

STATE OF CALIFORNIA  
State Energy Resources  
Conservation and Development Commission

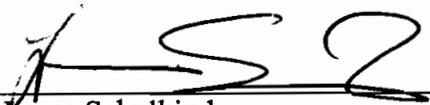
In the Matter of:  
  
**RUSSELL CITY ENERGY CENTER**

Docket No. 01-AFC-7C

**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

49079.1 CH030-001

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11  
12 In the Matter of:

Docket No. 01-AFC-7C

13  
14 RUSSELL CITY ENERGY CENTER

**PETITION FOR INTERVENTION  
AS AN AGENCY**

15  
16 1. The following agency hereby petitions to intervene in the above-captioned proceeding:

17 Chabot-Los Positas Community College District

18 2. Petitioner will be represented in this proceeding by:

19 Laura Schulkind, Liebert Cassidy Whitmore

20 153 Townsend Street, Suite 520, San Francisco, CA 94107

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

22 4. Petitioner has an interest in this proceeding that is articulated in the attached

23 Memorandum of Points and Authorities.

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

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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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10 STATE OF CALIFORNIA  
State Energy Resources  
11 Conservation and Development Commission  
12

13 In the Matter of:

Docket No. 01-AFC-7C

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15 RUSSELL CITY ENERGY CENTER  
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**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
CHABOT-LAS POSITAS COMMUNITY  
COLLEGE DISTRICT'S PETITION FOR  
INTERVENTION**

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20 **The Chabot-Las Positas Community College District** ("District") is a public entity that  
21 governs Chabot College, located within 3 miles of the Russell City Energy Center ("RCEC") site  
22 plan. Cal. Educ. Code § 66700. The District hereby petitions to intervene in this proceeding  
23 pursuant to Title 20, California Code of Regulations, sections 1207 and 1712. This petition is  
24 filed concurrently with the District's Petition for Reconsideration and Stay of the California  
25 Energy Commission's ("Commission") Final Decision of September 26, 2007, approving the  
26 proposed amendment to the RCEC site plan. Pursuant to Title 20, California Code of Regulations  
27 § 1720, the District also seeks to re-open the administrative proceedings and re-open the  
28 evidentiary record in this action.

1 As set forth more fully in the District’s accompanying Petition for Reconsideration and  
2 the Declaration in support prepared by Chancellor Kinnamon, the District is a public agency that  
3 plays a significant educational and economic role in the community that will be most greatly  
4 impacted by the RCEC proposed site. Kinnamon Decl., ¶¶ 2-7; see California Education Code  
5 §66700. With thousands of community members coming to the Chabot campus daily for  
6 education, employment and community activities, the District is deeply concerned how the  
7 placement of a power plant—less than three miles away—will impact the Chabot environment.  
8 Kinnamon Decl., ¶¶ 2-7.

9 Additionally, it is Chabot College’s legal duty to create and maintain a safe college  
10 campus—which includes an environmentally safe campus—for its students, employees and  
11 members of the public. See, e.g., Labor Code §§ 6300 et seq.; Health & Safety Code §§ 105400-  
12 105430; Public Resources Code §§ 21157-21157.7. In support of this duty, one of Chabot’s  
13 core values (as reflected in the Master Plan which it is statutorily required to maintain) is creating  
14 a safe campus. Kinnamon Decl., ¶ 4; Chabot College Master Plan 2005-2015 (2005) at p. 11;  
15 California Education Code § 70901(b); Title 5, California Code of Regulations §51008. Further,  
16 consistent with this core value, the College and District have signed onto the American College  
17 and Universities Presidents’ commitment to developing the internal infrastructure and planning to  
18 become climate neutral as soon as possible. Kinnamon Decl., ¶ 4. Thus, the District has a  
19 strong interest in local projects with the potential to thwart its legal obligations, undermine its  
20 Master Plan, and create adverse health effects for those who come onto its Chabot campus.

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

22 Title 20, California Code of Regulations section 1714(c), requires the Commission to  
23 notify any “...state, regional, or local agency which has been identified as having a potential  
24 interest in the proposed site and related facility.” It is extraordinary that, given this standard, the  
25 Chabot Las Positas Community College District received no such notice. Kinnamon Decl. ¶ 8.  
26 Not only does the District play a significant educational and economic role in the community that  
27 will be impacted by the proposed plant site—*the proposed site is less than three miles from its*  
28 *15,000-student Chabot campus*. Thus, this failure of notice violated the Commission’s duties

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

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

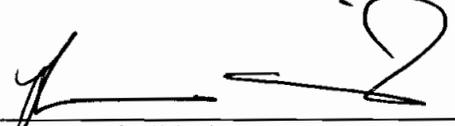
14 For these reasons, good cause exists for the District to intervene in this matter now.

15 **IV. Conclusion**

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

18 Dated: October 26, 2007

Liebert Cassidy Whitmore

19  
20  
21 By:   
22 Laura Schulkind  
23 Attorneys for Chabot-Las Positas Community  
24 College District

24 49084.1 CH030-001