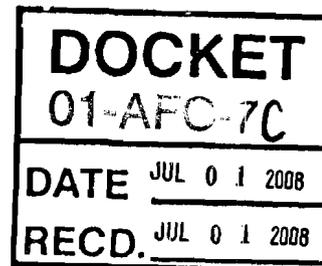


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8



9 STATE OF CALIFORNIA
10 STATE ENERGY RESOURCES
11 CONSERVATION AND DEVELOPMENT COMMISSION

12
13 In the Matter of:
14 RUSSELL CITY ENERGY CENTER

Case No. 01-AFC-7C

**CHABOT-LAS POSITAS COMMUNITY
COLLEGE DISTRICT'S WRITTEN
COMMENTS AND OBJECTIONS TO
RUSSELL CITY ENERGY COMPANY,
LLC'S PETITION TO EXTEND
CONSTRUCTION DEADLINE**

Date: July 30, 2008 [tentative]
Time: TBD
Location: TBD

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20 TO THE ENERGY COMMISSION, TO THE PARTIES AND THEIR ATTORNEYS OF
21 RECORD, AND TO ANY INTERESTED PERSONS OR ENTITIES:

22 Chabot-Las Positas Community College District ("District"), an interested local
23 governmental agency, submits the following comments and objections to Russell City Energy
24 Company, LLC's Petition to Extend Construction Deadline for the Russell City Energy Center
25 ("RCEC") Project.

26 The District asks that the Commission and its staff provide its counsel, Laura Schulkind
27 and Arlin Kachalia of Liebert Cassidy Whitmore, notice of any future hearing dates or deadlines
28 with respect to this petition.

64828.4 CH030-030

CHABOT DISTRICT'S WRITTEN COMMENTS AND OBJECTIONS TO PETITION FOR EXTENSION

1 **I. INTRODUCTION**

2 The Commission initially approved the construction of a 600 megawatt thermal electric
3 power plant, identified as RCEC on or about September 11, 2002. More than four years later, on
4 or about November 17, 2006, RCEC submitted an application to amend the previously approved
5 facility site plan. RCEC proposed to move the plant location by approximately 1300 feet. On or
6 about September 26, 2007, the Commission issued its final order, approving the amendment to
7 the RCEC site.

8 Now, almost one year later, although RCEC is required to begin construction of the
9 energy center no later than September 10, 2008, less than two months away, it seeks a two-year
10 extension to begin construction on September 10, 2010. The amended RCEC site is within about
11 6,762 feet (approximately 1.3 miles) of the Chabot College campus, in Hayward, California,
12 where the Chabot-Las Positas Community College District ("District") serves over 15,000
13 students and employs over 600 staff.

14 The District objects to the request for an extension and asks the Commission to deny
15 RCEC's petition. The District joins the County of Alameda and Group Objectors' in their
16 objections to the request for an extension.

17 **II. BACKGROUND ON DISTRICT'S INTERESTS**

18 The District is a public agency that plays a significant educational and economic role in
19 the Bay Area, in particular the area surrounding the proposed site for the RCEC Plant. (See Ed.
20 Code, § 66700). The District has been providing education and employment opportunities to Bay
21 Area residents for over 44 years and is currently administering a 498 million dollar bond,
22 approved by the voters in 2004. (See <http://www.clpccd.org/bond/>.) The District has deep ties to,
23 and a strong interest in the well being of, the community it serves. Currently, the District governs
24 two community colleges in Alameda County--Las Positas College located in Livermore, and
25 Chabot College located at 2555 Hesperian Boulevard, in Hayward, located approximately 6,762
26 feet (approximately 1.3 miles) from the amended RCEC site.

27 Chabot College is a public, comprehensive community college that serves thousands of
28 community residents on a daily basis. The Chabot College student population, alone, is

1 approximately 15,000 students (4,000 full-time and 11,000 part-time). Chabot College also has
2 approximately 600 employees. In short, thousands of community members visit the Chabot
3 College campus daily for education, employment, and community activities. (Ed. Code, §
4 82537.)

5 **III. THE DISTRICT OPPOSES RCEC'S PETITION FOR AN EXTENSION OF TIME**

6 The District joins the County of Alameda and the Group Objectors' comments as to why
7 the petition should be denied. It would be in the community's and the District's best interests if
8 RCEC does not proceed with construction of the facility either now or in the future.

9 Additionally, as briefly reviewed above, the Chabot Las Positas Community College
10 District serves thousands of community members, and is currently administering a multi-million
11 dollar bond. This massive construction project graphically illustrates the highly dynamic nature
12 of the District. The District has—and will continue to—grow and change significantly. As such,
13 the District asserts that the data and analyses that were originally relied upon to grant this petition
14 back in 2002 (notably *before* the voters approved the District's bond measure) have become stale
15 and unreliable. Thus, the District asserts that RCEC should not be permitted to rely upon this
16 2002 analysis to extend its time to construct this plant to 2010. The window of opportunity for
17 this power plant should be declared closed.

18 Alternatively, as set forth in the opposition filed by the County of Alameda, RCEC must
19 be required to establish good cause for this additional delay.

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1 **IV. CONCLUSION**

2 For the forgoing reasons, the Chabot Las Positas Community College District respectfully
3 requests that the extension of time be DENIED. The District also requests that the Commission
4 and its staff provide it notice of any future hearing dates or deadlines with respect to this petition.

5 Dated: July 1, 2008

LIEBERT CASSIDY WHITMORE

6
7 By: Arlin B. Kachalia
8 Laura Schulkind
9 Arlin B. Kachalia
10 Attorneys for Interested Governmental
11 Agency, Chabot-Las Positas Community
12 College District
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF CALIFORNIA

Amendment to the APPLICATION
FOR CERTIFICATION OF THE
RUSSELL ENERGY CENTER
POWER PLANT PROJECT

Docket No. 01-AFC-7C
PROOF OF SERVICE
(Revised 7/6/07)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 01-AFC-7C
1516 Ninth Street, MS-4
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docket@energy.state.ca.us

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DECLARATION OF SERVICE

I, Ervieta McCullough, declare that on July 1, 2008, I deposited copies of the attached: Chabot-Las Positas Community College District's Written Comments and Objections to Russell City Energy Company, LLC's Petition to Extend Construction Deadline in the United States mail at San Francisco, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

OR

I deposited the same document at a designated place for collection maintained by Federal Express, an express service carrier, with fully-prepaid delivery fees, and addressed to those identified on the Proof of Service listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.


Ervieta McCullough