ELLISON, SCHNEIDER & HARRIS L.L.P.

ANNE J. SCHNEIDER
1947-2010

CHRISTOPHER T. ELLISON
JEFFERY D. HARRIS
DOUGLAS K. KERNER
ROBERT E. DONLAN
ANDREW B. BROWN
PETER J. KIEL
LYNN M. HAUG
CHRISTOPHER M. SANDERS
GREGGORY L. WHEATLAND

ATTORNEYS AT LAW
2600 CAPITOL AVENUE, SUITE 400
SACRAMENTO, CALIFORNIA 95816
TELEPHONE: (916) 447-2166
FACSIMILE: (916) 447-3512
http://www.eslawfirm.com

BRIAN S. BIERING
CRAIG A. CARNES, JR.
JEDEDIAH J. GIBSON
CHASE B. KAPPEL
SHANE E. C. McCOIN
SAMANTHA G. POTTENGER

OF COUNSEL:
ELIZABETH P. EWENS
MARGARET G. LEAVITT
RONALD LIEBERT

December 20, 2012

California Energy Commission
DOCKETED
01-AFC-7C
TN # 68956
DEC 20 2012

Roger Johnson
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Russell City Energy Center Amendment No. 4 (01-AFC-7C)

Dear Mr. Johnson:

On November 8, 2012, the Russell City Energy Company, LLC ("Project Owner") filed a petition with the California Energy Commission (Energy Commission) requesting to modify provisions in the Russell City Energy Center Final Decision. The Russell City Energy Center is currently under construction. The anticipated commercial operation date is June 2013.

The modifications proposed in the petition fall into two general categories. First, the petition requests changes to certain conditions regarding on-site and off-site landscaping and trailside-improvements. These proposed revisions are very time sensitive because they relate to conditions which (as currently written) apply to activities during construction or prior to commercial operation.

Second, the petition seeks to amend certain air quality conditions of certification to ensure that these conditions are consistent with certain proposed changes in the conditions of the Authority to Construct ("ATC") issued by the Bay Area Air Quality Management District ("BAAMQD").

When air quality amendments intended to conform to an ATC are considered by the Commission, the Commission Staff generally waits for BAAQMD to provide its analysis of the proposed revisions to Commission Staff before preparing the Staff Analysis on the petition for modification. After publication of the Staff Analysis and an appropriate public comment period, the revisions are adopted by the Commission.

Based on our recent discussions with BAAQMD, we do not anticipate that BAAQMD will complete its review of the air quality amendments for a couple of months. Because the Staff Analysis and public comment period will follow BAAQMD's analysis of these changes, we are concerned that the final Commission decision on Amendment No. 4 could be delayed until May or June of 2013, or later. This delay is of particular concern to the conditions regarding on-site and off-site landscaping and trail improvements, because these changes should be considered by the Commission as early as possible prior to commercial operation.

For these reasons, we request that the Commission bifurcate its Consideration of Amendment No. 4 and process the proposed revisions to Conditions VIS-2, VIS-9 and VIS-10 at this time. We request that the Commission Staff issue the Staff Analysis and schedule public comment on these issues at its earliest convenience. Thereafter, when BAAQMD has acted on the air quality changes the Commission may process these revisions at a later date.

Sincerely,

Greggory L. Wheatland
Attorneys for Russell City Energy Company, LLC

GLW/kam
cc: Bruce Boyer