

TN 26086
docketed with FSA

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of:

**Application for Certification for the
the Russell City Energy Center**

Docket No. 01-AFC-7
(AFC Accepted 7/11/01)

Order No. 02-0911-02

COMMISSION ADOPTION ORDER

This Energy Commission Order adopts the Commission Decision on the Calpine Russell City Energy Center Project. It incorporates the Presiding Member's Proposed Decision (PMPD) in the above-captioned matter and the Committee Errata issued on September 5, 2002. The Commission Decision is based upon the evidentiary record of these proceedings (Docket No. 01-AFC-7) and considers the comments received at the September 11, 2002 business meeting. The text of the attached Commission Decision contains a summary of the proceedings, the evidence presented, and the rationale for the findings reached and Conditions imposed.

This ORDER adopts by reference the text, Conditions of Certification, Compliance Verifications, and Appendices contained in the Commission Decision. It also adopts specific requirements contained in the Commission Decision which ensure that the proposed facility will be designed, sited, and operated in a manner to protect environmental quality, to assure public health and safety, and to operate in a safe and reliable manner.

FINDINGS

The Energy Commission hereby adopts the following findings in addition to those contained in the accompanying text:

1. The Russell City Energy Center is a merchant power plant whose capital costs will not be borne by the State's electricity ratepayers.
2. The Conditions of Certification contained in the accompanying text, if implemented by the Applicant, ensure that the project will be designed, sited, and operated in conformity with applicable local, regional, state, and federal laws, ordinances, regulations, and standards, including applicable public health and safety standards, and air and water quality standards.
3. Implementation of the Conditions of Certification contained in the accompanying text will ensure protection of environmental quality and assure reasonably safe and reliable operation of the facility. The Conditions of Certification also assure that the project will neither result in, nor contribute substantially to, any significant direct, indirect, or cumulative adverse environmental impacts.

4. Existing governmental land use restrictions are sufficient to adequately control population density in the area surrounding the facility and may be reasonably expected to ensure public health and safety.
5. The evidence of record establishes that no feasible alternatives to the project, as described during these proceedings, exist which would reduce or eliminate any significant environmental impacts of the mitigated project.
6. The evidence of the record does not establish the existence of any environmentally superior alternative site.
7. The Decision contains measures to ensure that the planned, temporary, or unexpected closure of the project will occur in conformance with applicable laws, ordinances, regulations, and standards.
8. The proceedings leading to this Decision have been conducted in conformity with the applicable provisions of Commission regulations governing the consideration of an Application for Certification and thereby meet the requirements of Public Resources Code, sections 21000 et. seq., and 25500 et. seq.

ORDER

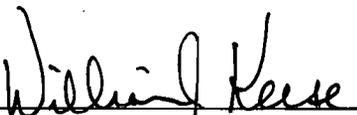
Therefore, the Energy Commission ORDERS the following:

1. The Application for Certification of the Calpine Corporation, Russell City Energy Center, as described in this Decision, is hereby approved and a certificate to construct and operate the project is hereby granted.
2. The approval of the Application for Certification is subject to the timely performance of the Conditions of Certification and Compliance Verifications enumerated in the accompanying text and Appendices. The Conditions and Compliance Verifications are integrated with this Decision and are not severable therefrom. While Applicant may delegate the performance of a Condition or Verification, the duty to ensure adequate performance of a Condition or Verification may not be delegated.
3. This Decision is final, issued, and effective within the meanings of Public Resources Code sections 25531 and 25901, as well as 20 Cal. Code of Regs. section 1720.4, when voted upon by the Commission. Anyone seeking judicial review of the Decision must file a Petition for Review with the California Supreme Court no later than thirty (30) days from September 11, 2002.

4. For purposes of reconsideration pursuant to Public Resources Code section 25530 and 20 Cal. Code of Regs. section 1720(a), this Decision is adopted when it is filed with the Commission's Docket Unit. Anyone seeking reconsideration of this Decision must file a petition for reconsideration no later than thirty (30) days from the date the Decision is docketed. The filing of a petition for reconsideration does not extend the 30 day period for seeking judicial review mentioned above, which begins on September 11, 2002.
5. The Commission hereby adopts the Conditions of Certification, Compliance Verifications, and associated dispute resolution procedures as part of this Decision in order to implement the compliance monitoring program required by Public Resources Code section 25532. All conditions in this Decision take effect immediately upon adoption and apply to all construction and site preparation activities including, but not limited to, ground disturbance, site preparation, and permanent structure construction.
6. The Executive Director of the Energy Commission shall transmit a copy of this Decision and appropriate accompanying documents as provided by Public Resources Code section 25537 and California Code of Regulations, title 20, section 1768.

Dated: September 11, 2002

ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION



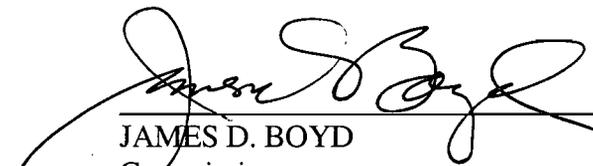
WILLIAM J. KEESE
Chairman



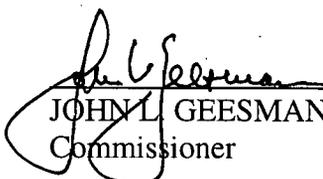
ROBERT PERNELL
Commissioner



ARTHUR H. ROSENFELD, Ph.D.
Commissioner



JAMES D. BOYD
Commissioner



JOHN L. GEESMAN
Commissioner

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

Application for Certification
for the RUSSELL CITY
ENERGY CENTER Project

Docket No. 01-AFC-7

PROOF OF SERVICE
[*REVISED 1/24/02]

I, MAGGIE READ, declare that on September 12, 2002, I deposited copies of the attached RUSSELL CITY ENERGY CENTER COMMISSION DECISION in the United States mail at Sacramento, CA with first class postage thereon fully prepaid and addressed to the following:

DOCKET UNIT

***Send the original signed document
plus the required 12 copies to the
address below:***

CALIFORNIA ENERGY COMMISSION
DOCKET UNIT, MS-4
Attn: Docket No. 01-AFC-7
1516 Ninth Street
Sacramento, CA 95814-5512

* * * *

In addition to the documents sent to the Commission Docket Unit, also send individual copies of any documents to:

APPLICANT

Ken Abreu
General Manager
Calpine/Bechtel Joint Development
6700 Koll Center Parkway, Suite 200
Pleasanton, CA 94566
(925) 600-2000
kena@calpine.com

Russell City Energy Center
James R. Leahy
Development Manager
6700 Koll Center Parkway, Suite 200
Pleasanton, CA 94566
(925) 600-2000
jileahy@calpine.com

Counsel for Applicant:

Gregg L. Wheatland, Esq.
Ellison, Schneider & Harris L.L.P.
Attorneys at Law
2015 H Street
Sacramento, CA 95814-3109
(916) 447-2166
glw@eslawfirm.com

**CONSULTANT FOR CALPINE/BECHTEL
JOINT DEVELOPMENT**

Andrea Grenier, Environmental
Project Manager
Argonaut Consulting
7649 Sunrise Blvd., Ste. E
Citrus Heights, CA 95610
(916) 722-4068
andrea@argonautconsulting.com

CONSULTANT FOR CALPINE/BECHTEL

Doug Davy
Foster Wheeler Environmental
3427 Lennane Drive, Suite 200
Sacramento, CA 95834
(916) 928-4805
ddavy@fwenc.com

Alex Ameri, P.E.
Deputy Director of Public Works for
Utilities
777 "B" Street
Hayward, CA 94541-5007
Tel. (510)583-4720
alexa@ci.hayward.ca.us

INTERESTED AGENCIES

Larry Tong
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605-0381
(510) 544-2621
tong@ebparks.org

Bay Area Air Quality Management
District
Bob Nashimura
939 Ellis Street
San Francisco, CA 94109
(415) 749-4708

Mark Taylor
Field Supervisor
East Bay Regional Park District
3050 West Winton Ave.
Hayward, CA 94545
(510) 783-1066
hayward@ebparks.org

INTERVENORS

CURE
Marc D. Joseph
Mark R. Wolfe
Adams Broadwell Joseph & Cardozo
651 Gateway Boulevard, Suite 900
South San Francisco, CA 94080
(650) 589-1660
mwolfe@adamsbroadwell.com

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

*Roger Beers
The Law Office of Roger Beers
2930 Lakeshore Ave., Suite 408
Oakland, CA 94610
rbeers@rbeerslaw.com

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



[signature]

* * * *

INTERNAL DISTRIBUTION LIST

FOR YOUR INFORMATION ONLY! Parties **DO NOT** mail to the following individuals. The Energy Commission Docket Unit will internally distribute documents filed in this case to the following:

WILLIAM J. KEESE, Chairman
Presiding Member
MS-32

ROBERT PERNELL, Commissioner
Associate Member
MS-33

Gary Fay
Hearing Officer
MS-9

Kae Lewis
Project Manager
MS-15

Dick Ratliff
Staff Counsel
MS-14

Jonathan Blee
Assistant Chief Counsel
MS-14

PUBLIC ADVISER

Roberta Mendonca
Public Adviser's Office
1516 Ninth Street, MS-12
Sacramento, CA 95814
pao@energy.state.ca.us