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

IN THE MATTER OF:

APPLICATION FOR CERTIFICATION FOR THE SAN FRANCISCO ELECTRIC RELIABILITY PROJECT

DOCKET NO. 04-AFC-1

DOCKET
04-AFC-1
DATE APR 20 2006
RECD APR 20 2006

RULING re: CARE MOTION for EXTENSION of TIME and CHANGE of SCHEDULE

I. BACKGROUND

The Committee held a Prehearing Conference in this case on April 3, 2006. At that event, the Committee discussed, among other things, which parties desired to present witnesses on various topics, as well as the scheduling of dates for those witnesses and the filing of associated testimony. The parties were also provided a "tentative witness list" reflecting all parties' stated intentions to present or cross-examine witnesses as indicated in their respective Prehearing Conference Statements. Applicant, Staff, intervenor Sarvey, and intervenor Californians for Renewable Energy (CARE) each filed a Prehearing Conference Statement on March 17, 2006 and participated at the Prehearing Conference.

Following the Prehearing Conference, the parties were emailed a copy of the tentative witness list, revised based upon Prehearing Conference discussions, and asked to inspect the list once again for completeness and accuracy. Applicant, Staff, and intervenors Sarvey and CARE responded, in some instances with revisions to the tentative list which had not been raised at the Prehearing Conference.

On April 10, 2006, the Committee noticed the first set of evidentiary hearings for April 27 and May 1, 2006. The Notice scheduled the appearance of all witnesses and the filing of testimony based upon the parties' representations in the Prehearing Conference Statements, discussions at the Prehearing Conference, and responses to the emailed version of the tentative witness list.

On April 13, 2006, Applicant filed a Motion to move the topic of Traffic and Transportation to May 1 from April 27, 2006 because of a change in the availability of its witness. The Applicant also requested that it be granted an extension to May 1 from April 17, 2006 in order to file additional testimony. That testimony is in response to Staff's April 10, 2006 supplemental testimony, which affected specified conditions for the topics of Waste Management and Soil and

Proof of Service List (Revised on 2/17/06) filed with Original Document. Mailed from Sacramento on 4/20/2006).

Water Resources. The Staff's supplemental testimony, and the conditions contained therein, relate to the existing contamination of the site.

The Committee granted both of Applicant's requests in its April 14, 2006 "Order Granting Time Extension." The Order further explained that all other parties would also have until May 1, 2006 to respond to matters reflected in Staff's April 10, 2006 supplemental testimony, and that the associated site contamination issues in the topics of Waste Management and Soil and Water Resources would be heard on May 22, 2006 rather than on May 1, 2006 as previously scheduled.

Near the close of business on April 14, 2006, CARE then electronically filed a "Motion for Extension of Time and Change of Evidentiary Hearing Schedule." In this Motion, CARE basically asserts that it needs additional time to prepare testimony on various topics and that certain of these topics should be delayed from their scheduled hearing dates of April 27 and May 1, 2006. Applicant filed a response opposing CARE's Motion on April 17, 2006. Staff also filed an opposition to this Motion on the same date.

II. DISCUSSION

On its face, CARE's Motion would result in a delay for 10 of the 19 topics now scheduled, in whole or in part, for the first set of evidentiary hearings.[1] Interestingly enough, despite having had multiple chances to do so as explained above, CARE has **not** indicated that it wishes to present witnesses for six of the potentially delayed topics (Transmission Line Safety and Nuisance, Transmission System Engineering, Local System Effects, Power Plant Reliability, Cultural Resources, and Traffic and Transportation; *4/3/06 RT 86;* email response of April 7, 2006).

CARE also asserts that Staff only recently made available testimony from the California Independent System Operator (CAISO) dealing with the topics of

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[1] CARE seeks a delay for the following topics scheduled for April 27, 2006: Transmission System Engineering, Transmission Line Safety and Nuisance, Power Plant Reliability, Cultural Resources, Geology and Paleontology, and Hazardous Materials Management (excluding ammonia issues).

CARE also seeks to delay hearing topics scheduled for May 1, 2006: Local System Effects, Traffic and Transportation (already rescheduled per April 14 Committee Order), Waste Management (excluding site contamination issues), and Soil and Water Resources (excluding site contamination issues).

Furthermore, CARE seeks a delay in hearing the Public Health and Air Quality topics which have not yet been scheduled. Per a telephone conversation during the morning of April 17, CARE has also requested a delay in hearing the yet unscheduled topic of Biological Resources.

Transmission System Engineering and Local Systems Effects. CARE apparently believes this fact justifies a delay in hearing these topics.

We disagree. CARE had not indicated that it would present witnesses on the transmission topics, so there is no need for time to prepare responsive testimony. The CAISO's testimony is available nearly two weeks before the earliest hearing date on these subjects, so there is adequate time to prepare cross-examination.[2]

Furthermore, CARE failed to identify witnesses for the other enumerated topics. The time for doing so has now passed (as previously explained at great length, beginning with the February 24, 2006 Notice of Prehearing Conference). Therefore, we construe CARE's Motion as dilatory and DENY it with respect to these topics.

Finally, CARE's Motion also affects another presently scheduled topic (Geology), as well as other topics not yet scheduled for hearing (Air Quality, Public Health, Biological Resources, and the site contamination aspects of the topics of Waste Management, and Soil and Water Resources). CARE fails to persuasively establish a reason to delay hearing any of these topics. Moreover, testimony concerning the site contamination aspects of Waste Management and Soil and Water Resources is not due until May 1, 2006. Since the site contamination aspects of these topics and the presently unscheduled topics will not be heard until May 22 or May 31, we see no reason to delay them further.

III. Ruling

CARE's April 14, 2006 Motion for Extension of Time and Change of Evidentiary Hearing Schedule is DENIED as discussed above.

JAMES D. BOYD
Commissioner and Presiding Member
San Francisco Electric Reliability Project AFC Committee

JOHN L. GEESMAN
Commissioner and Associate Member
San Francisco Electric Reliability Project AFC Committee

[2] This ruling does not affect CARE's right to cross-examine witnesses as indicated on the existing schedule.

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

APPLICATION FOR CERTIFICATION FOR THE SAN FRANCISCO ELECTRIC RELIABILITY PROJECT

Docket No. 04-AFC-01
PROOF OF SERVICE
Revised 2/17/06

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DECLARATION OF SERVICE

I, Maggie Read, declare that on April 20, 2006, I deposited copies of the attached Ruling re: CARE Motion for Extension of Time and Change of Schedule, in the United States mail at Sacramento, California with first class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above. Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. I declare under penalty of perjury that the foregoing is true and correct.

[signature]

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