DOCKET
04-AFC-1
DATE APR 26 2006
RECD. APR 27 2006

BEFORE THE
STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

Application for Certification for the San Francisco Electric Reliability Project	Docket No. 04-AFC-1

Objections of CARE to April 27, 2006 Sacramento Evidentiary Hearing During Pendency of Petition for Full Commission Review of Ruling Denying CARE's Motion for Extension of Time and Change of Evidentiary Hearing Schedule

CAlifornians for Renewable Energy, Inc. (CARE) objects to the April 27, 2006 Sacramento Evidentiary Hearing during the pendency of our Petition for Full Commission Review of *Ruling Denying CARE's Motion for Extension of Time and Change of Evidentiary Hearing Schedule.*

On April 24, 2006, pursuant to Section 1215 of the Commission's Rules of Practice and Procedure CARE filed a Petition for full Commission review of the Committee's *Ruling Denying CARE's Motion for Extension of Time and Change of Evidentiary Hearing Schedule.* CARE seeks the full Commission's review of the Committee's Ruling as regards our requests for changes in the evidentiary hearings schedule including the Committee's failure to address our request for an extension of time to file our testimony.

The April 27, 2006 evidentiary hearing includes topic areas that CARE has appealed to the full Commission including purpose and need, transmission line safety, transmission system engineering, power plant reliability, cultural resources, geology, and hazardous materials management. The Committee has already granted all other Parties who support the project, an opportunity to late file their testimony. CARE is the only opponent Party to the project who has requested an extension of time and change of evidentiary hearing schedule based on the Applicant's failure to file a Remedial Investigation protocol and Remedial Action Plan for the removal of on site buried contamination, subject such to public comment as is required by CEQA, and our Motion

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E Johnson

has been denied. CARE therefore objects to and protests the Committee and the Hearing Officer holding the April 27, 2006 evidentiary hearing during the during the pendency of Petition for Full Commission Review of *Ruling Denying CARE's Motion for Extension of Time and Change of Evidentiary Hearing Schedule*, as a violation of our procedural due process rights.

Apparently the rules only apply to CARE and not to the other Parties and Applicant as demonstrated by the Applicant's "Proposed conditions of certification for soil and water" which seeks Committee approval for deferral of the Remedial Investigation protocol and Remedial Action Plan for the removal of on site buried contamination, and the elimination of the appropriate public participation required under law, until after the project's approval by the Commission. We object to and protest the Committee allowing the Applicant to violate the no surprise rule, while requiring CARE to file testimony and cross examine witnesses on topic areas who evidentiary records and exhibits are not yet complete.

CARE also reiterates VP Lynne Brown's objects to holding evidentiary hearings in Sacramento. (Prehearing Conference RT at page 79.)

6 HEARING OFFICER FAY: Okay. All right,
7 we'll move to Mr. Brown then, CARE.
8 MR. BROWN: Yes. First of all I'd like
9 to object to the hearing being in Sacramento due
10 to the fact that the community is a low-income
11 community. And -- is very high.
12 HEARING OFFICER FAY: And which topics
13 did you want specifically heard in this community?
14 MR. BROWN: Well, basically the one
15 that, I guess the one that was going to stay here
16 was socioeconomic -- which one? Air quality,
17 environmental justice, hazardous material. And
18 waste management.

Mr. Brown is a low-income African American member of CARE who is unable to afford the cost of travel to Sacramento. By holding evidentiary hearing in Sacramento the Committee violates Mr. Brown's right to meaningful and informed public participation as is required by CEQA and other statutory schemes. Further the Committee's failure to provide accommodation for Mr. Brown's special needs by provide a phone number for

him to call in to the April 27, 2006 evidentiary provides further evidence of the Committee's intent to discriminate against Mr. Brown based on race and income. CARE therefore objects to and protest such as racial discrimination, we further interpret such action by the Committee, as an act of unlawful retaliation by the CEC for bringing our US EPA OCR Title VI Complaint of racial discrimination against the Commission (File No: 2R-00-R9) as well as our US DOE OCRD Title VI Complaint of racial discrimination against the City and County of San Francisco (CCSF) and the CEC for their support of the development of this project in the Bayview Hunters Point San Francisco community (File No: 03-003-HQ).

Conclusion

Wherefore CARE respectfully objects and protests the April 27, 2006 Sacramento Evidentiary Hearing during the pendency of our Petition for Full Commission Review of *Ruling Denying CARE's Motion for Extension of Time and Change of Evidentiary Hearing Schedule,* the Committee allowing the Applicant to violate the no surprise rule, while requiring CARE to file testimony and cross examine witnesses on topic areas that are not yet ready for hearing, to holding evidentiary hearings in Sacramento as an act of racial discrimination against Mr. Brown, and such, as an act of unlawful retaliation by the CEC for bringing our US EPA OCR Title VI Complaint of racial discrimination against the Commission (File No: 2R-00-R9) and US DOE OCRD Title VI Complaint of racial discrimination (File No: 03-003-HQ).

Respectfully submitted,

Lynne Brown

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Verification

I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

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

Executed on this 26th day of April 2006, at Detroit, Michigan.

Michael E. Boyd

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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**

DOCKET UNIT

Instructions: *Send an original signed document plus 12 copies* ***or*** *an electronic copy plus one original paper copy to the address below:*

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 04-AFC-01
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Also send a printed ***or*** *electronic copy of all documents to each of the following:*

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DECLARATION OF SERVICE

I, **Evelyn M Johnson**, declare that on **April 27, 2006**, I deposited copies of the attached **RE: Objections of CARE to April 27, 2006 Sacramento Evidentiary Hearing During Pendency of Petition for Full Commission Review of Ruling Denying CARE's Motion for Extension of Time and Change of Evidentiary Hearing 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.

Evelyn M Johnson
[signature]

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Parties DO NOT mail to the following individuals. The Energy Commission Docket Unit will internally distribute documents filed in this case to the following:

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