

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

DOCKET 04-AFC-1
DATE DEC 19 2006
RECD. DEC 19 2006

IN THE MATTER OF:)
)
APPLICATION FOR CERTIFICATION)
FOR THE SAN FRANCISCO)
ELECTRIC RELIABILITY PROJECT)
_____)

DOCKET No. 04-AFC-1
ORDER NO. 06-1213-17

ORDER ON RECONSIDERATION AFFIRMING FINAL DECISION

This Commission approved the Final Decision for the San Francisco Electric Reliability Project ("SFERP") proceeding on October 3, 2006. Petitions for reconsideration were filed by intervenors Californians for Renewable Energy ("CARE") and Robert Sarvey on November 1, 2006. (See Pub. Resources Code, § 25530; Cal. Code Regs., tit. 20, § 1720.) The petitions were granted by the Commission at its November 29, 2006, business meeting. The Commission considered the substantive merits of the petitions at a hearing, in which petitioners and others participated, at its December 13, 2006, business meeting. Having reconsidered, by this order we affirm without change the Final Decision as originally approved on October 3.

II. DISCUSSION

A. CARE'S PETITION

CARE's petition made several arguments for reconsideration. First, it argued that an August 14, 2006 letter from the City of San Francisco's Public Utility Commission ("City") to the California Department of Water Resources ("DWR") indicated a project "design change" in that it indicated chillers would be used on the SFERP turbines. CARE further contended that there has been no analysis of whether such chillers would increase particulate emissions, or whether they would affect reliability. (CARE Pet., p. 2.) CARE did not raise these issues during the proceeding. Therefore, it may not do so for the first time on reconsideration. In addition, CARE's argument is without merit. The chillers to be used on the SFERP project were in the original project description filed in March 2004. (See Application for Certification ("AFC"), § 2.2.4, p. 2-3 [March 2004].) The chiller-equipped turbines were also described in the AFC Supplement filed by the City in 2005. (See AFC Supplement, § 2.2.4, pp. 2-3 and 2.4.) Thus, the chillers have always been part of the project. Moreover, there is no evidence that the use of chillers would affect either particulate emissions or reliability; CARE itself offered none. The conditions for certification in the Final Decision, which strictly limit particulate emissions, apply to the project as licensed – i.e., to the project including the chillers.

Proof of Service (Revised 7/5/06) filed with original.
Mailed from Sacramento on DEC. 19, 2006 

CARE next argues that the City's August 14 letter indicates that a different project locating a 48 megawatt turbine at San Francisco International Airport will serve airport reliability, and will cost additional money for transmission upgrades. (CARE Pet., pp. 2-3.) Indeed, the City's letter does so state, but this information is irrelevant to the Final Decision on SFERP.

CARE next argues that SFERP's three similar turbines could be also be placed at the airport, and states that there is "no reason" to put them in the City instead. (CARE Pet., p 3.) This issue was specifically addressed by expert testimony from the California Independent System Operator ("CAISO," which operates most of the State's electricity grid, including that portion in and around San Francisco), the Commission Staff, and the City. All of this expert testimony arrived at the conclusion that new generation sited south of the Martin substation (including at San Francisco International Airport) would have limited reliability value for the City because of transmission bottlenecks. For this reason, the CAISO *requires* new *in-City* generation, in order to protect the City's electric reliability. This is a fundamental purpose of the SFERP project. There was no evidence to the contrary, and the Commission made this finding in its Final Decision. (Final Decision, p. 94.) CARE argues that the Commission should instead accept the contrary testimony of its witness, and that by instead relying upon the expert testimony of the CAISO, Commission staff, and the City, we are showing racial bias. (CARE Pet., p. 3-4.) But CARE's testimony, if it can be called such, was from a witness who admitted he was not an expert, admitted that he was unfamiliar with the reliability concerns of the CAISO and other parties, and indicated that his testimony was based on the hearsay testimony of another witness in a different proceeding—testimony which was not relevant to the SFERP proceeding. In other words, CARE offered no substantial evidence contradicting or calling into question the evidence presented by the CAISO and other witnesses.

Similarly, CARE argues that the TransBay Cable project is a superior alternative to SFERP. (CARE Pet., p. 4.) However, expert testimony from the CAISO, Commission staff, and the City indicated that the TransBay Cable project does not meet the important project goal of providing in-City generation for reliability purposes, a finding this Commission made in its Final Decision. (Final Decision, p. 94.) Again, there was no substantial evidence presented to the contrary.

B. SARVEY'S PETITION

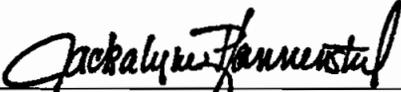
The petition from Robert Sarvey contends that the Commission's hearing advisor inadvertently forgot to enter into the evidentiary record, at a hearing, the written declarations and resumes for the City's witnesses, which had been pre-filed, and served on all parties, along with the witnesses' pre-filed testimony. Sarvey contends that this hypertechnical, formalistic oversight invalidates the City's testimony, or at least impairs it to the point that it cannot support a factual finding. (Sarvey Pet., p. 2.) By implication, Sarvey believes that a new evidentiary hearing must be held to correct this alleged problem. However, the transcript from the May 31, 2006, evidentiary hearing indicates that the resumes and declarations were formally admitted to the evidentiary record. (May 31 RT 72.) Accordingly, we need not rule on whether a new hearing would be

required merely to receive such documents into evidence, even though the witnesses were sworn when they orally testified.

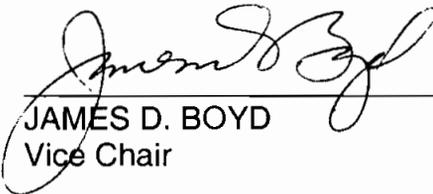
III. CONCLUSION

There is no error of fact or law in the SFERP Final Decision adopted on October 3, 2006, and we therefore affirm it.

Dated: December 13, 2006, at Sacramento, California



JACKALYNE PFANNENSTIEL
Chairman



JAMES D. BOYD
Vice Chair



JOHN L. GIESMAN
Commissioner



ARTHUR H. ROSENFELD
Commissioner



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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 POWER PROJECT

Docket No. 04-AFC-1
PROOF OF SERVICE
**Revised 7/5/06*

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:

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DECLARATION OF SERVICE

I, Julie Mumme, declare that on December 19, 2006, I deposited copies of the attached Order on Reconsideration Affirming Final Decision in the United States mail at Sacramento, CA 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. All electronic copies were sent to all those identified on the Proof of Service list above.

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


[signature]