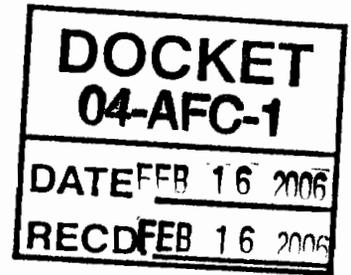


STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION



In the Matter of:)
)
Application for Certification for) Docket No. 04-AFC-1
the San Francisco Electric Reliability)
Project)
_____)

**RESPONSE OF ENERGY COMMISSION STAFF REGARDING REQUEST
FROM CALIFORNIANS FOR RENEWABLE ENERGY TO DELAY
PROCEEDING PENDING RE-RELEASE OF AIR DISTRICT FINAL
DETERMINATION OF COMPLIANCE**

On January 11, 2006, Californians for Renewable Energy (“CARE”) filed an appeal with the Bay Area Air Quality Management District (“Air District”) regarding the previously issued Final Determination of Compliance (“FDOC”), issued by the Air District on October 22, 2005. The basis for the appeal was procedural--that the Air District had neglected to consider and respond to CARE’s comments on the Air District’s Preliminary Determination of Compliance. The Air District’s rules require consideration of all public comments prior to issuing the FDOC.

In a subsequent January 29, 2006, filing with the California Energy Commission (“Commission”), CARE included a request that the Commission’s staff not release its Final Staff Assessment (“FSA”) because the Air District had indicated that it would re-release the FDOC after considering CARE’s comments. CARE’s filing states that “Section 1744.5 [of the Commission’s siting regulations] requires the Commission’s Staff to wait for the air pollution control district to ‘conduct, for the Commission’s certification process, a determination of compliance review of the application in order to determine whether the proposed facility meets [Air District requirements].’”

It is not apparent from CARE’s January 29 filing whether this request—essentially a request to suspend the proceeding—is addressed to the Staff or to the Commission siting committee. However, assuming it was addressed to the Committee, Staff opposes such a suspension of the proceeding for the following reasons.

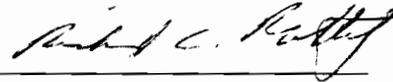
First, contrary to CARE’s assertions, Section 1744.5, subdivision (b) does not require the Air District to issue the FDOC prior to issuance of the Final Staff Assessment. Moreover, the Air District re-issued the FDOC with no substantive changes (after considering CARE’s comments) on January 25, 2006, four days *prior* to CARE’s filing with this agency. The Air District has thus addressed the procedural issue raised by

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CARE, making its issue moot. Accordingly, there is no reason to suspend this proceeding even if CARE pursues its moot procedural point in the Air District's forum.

Dated: February 16, 2006

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Richard C. Ratliff", written over a horizontal line.

RICHARD C. RATLIFF
Staff Counsel IV

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 8/03/05*

DOCKET UNIT

*Send the original signed document plus
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Attn: Docket No. 04-AFC-01
DOCKET UNIT, MS-4
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*In addition to the documents sent to the
Commission Docket Unit, also send
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DECLARATION OF SERVICE

I, **CHESTER HONG**, declare that on **February 16, 2006** I deposited copies of the attached **RESPONSE OF ENERGY COMMISSION STAFF REGARDING REQUEST FROM CALIFORNIANS FOR RENEWABLE ENERGY TO DELAY PROCEEDING PENDING RE-RELEASE OF AIR DISTRICT FINAL DETERMINATION OF COMPLIANCE** 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.


CHESTER HONG

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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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MS-15

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MS-14

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