

**DOCKET**  
**04-AFC-1**

DATE \_\_\_\_\_

RECD. Jul 10-2006

**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

**APPEAL TO FULL COMMISSION OF JULY 6, 2006, "COMMITTEE RULING RE:  
JOINT MOTION OF CARE AND SARVEY TO STRIKE OPENING BRIEF OF  
APPLICANT"**

This appeal by CARE to the full Commission is pursuant to section 1215, Interlocutory Orders and Appeals, of the commission's regulations<sup>1</sup>. The Committee wrongly stated that CARE did not serve its brief on Applicant. CARE has filed a "Petition to Intervene with Financial Hardship" with the Commission which was granted on July 9, 2004 and so is excused from serving all parties.

The Committee grants financial hardship status. Petitioner may e-mail its filings to those on the Proof of Service list with e-mail addresses indicated, but must provide paper copies to all others. In addition, Petitioner shall provide an e-mail copy and a paper copy of all its filings to the Commission's Docket Unit. Staff, through the Docket Unit or other appropriate entity, shall ensure Petitioner's filings are timely distributed.

CARE did serve its brief on the Commission's Docket Office according to sections 1209.5 and 1210 of the Commission's regulations. Even though not required by regulation or statute, CARE did electronically send its brief to Applicant's attorney to the address that the Commission's Docket Office provided to CARE pursuant to section

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<sup>1</sup> BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS, TITLE 20 PUBLIC UTILITIES AND ENERGY, DIVISION 2. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
This database is current through 06/23/06, Register 2006, No. 25.

1210<sup>2</sup> of the Commission's regulations; however, the Docket Office provided the wrong email address.

CARE's compliance with BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS TITLE 20, PUBLIC UTILITIES AND ENERGY DIVISION 2: STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION does not excuse the applicant from not complying with Commission orders and regulations. The Committee presiding over this case, Docket No. 04-AFC-01 has an obligation to enforce its orders and the Commission regulations equally upon all parties in order to provide the parties with a legitimate proceeding reviewing Applicant's proposed project. Therefore, CARE and Bob Sarvey renew our motion to strike applicant's brief because it was not timely filed.

#### CONCLUSION

CARE complied with the Commission's regulations as required by law and should not be penalized for it. This is a clear violation of CARE's due process and equal protection of the laws - protections as specified by the constitutions of California and

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<sup>2</sup> s 1210. Filing by Parties.

(a) Unless otherwise provided by the presiding member, a paper copy of all written material filed by any party in a proceeding shall be served in person or by first class mail, or other equivalent delivery service, with postage prepaid, on every other party to the proceeding, except where a party requests an electronic copy when available. Any party so requesting shall be served with an electronic copy in a manner pursuant to section 1209.5 regarding electronic filings.

(b) The Docket Unit shall promulgate and make available a list which shall include the names and addresses of all parties to a proceeding.

(c) Any filing by a party shall include a proof of service in compliance with subsection (a) of this section.

United States. CARE asks the full Commission to review and rescind the JULY 6, 2006,  
“COMMITTEE RULING RE: JOINT MOTION OF CARE AND SARVEY TO  
STRIKE OPENING BRIEF OF APPLICANT”.

Respectfully submitted,



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Lynne Brown – Vice President, CARE  
Resident, Bayview Hunters Point  
24 Harbor Road  
San Francisco, CA 94124  
E-mail: [l\\_brown369@yahoo.com](mailto:l_brown369@yahoo.com)



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Michael E. Boyd – President, CARE  
5439 Soquel Dr., Soquel, CA 95073-2659  
Tel: (408) 891-9677  
Fax: (831) 465-8491  
E-mail: [michaelboyd@sbcglobal.net](mailto:michaelboyd@sbcglobal.net)



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Robert Sarvey - Intervener  
501 W. Grantline Rd.  
Tracy, Ca. 95376  
Tel: 209 835-7162  
E-mail: [sarveybob@aol.com](mailto:sarveybob@aol.com)

## Attachment 1

Subject: SFERP: Opening Brief for the City and County of SF

Date: Mon, 26 Jun 2006 18:53:19 -0600

From: Jeannette.Harris@CH2M.com Add to Address Book Add Mobile Alert

To: Bhale@sfwater.org, john.carrier@ch2m.com, jeannette.harris@ch2m.com, Bpfanner@energy.state.ca.us, cgraber@energy.state.ca.us, DRatliff@energy.state.ca.us, docket@energy.state.ca.us, djordan@caiso.com, gfay@energy.state.ca.us, drp.gene@sbcglobal.net, Jacqueline.Minor@sfgov.org, Jeanne.Sole@sfgov.org, Jeffrey.Russell@mirant.com, Jesse.Blout@sfgov.org, joeboss@joeboss.com, jgeesman@energy.state.ca.us, kkubick@sfwater.org, Kenya.Davis@sfgov.org, lbeckstr@energy.state.ca.us, L\_brown123@yahoo.com, sarah.madams@ch2m.com, pao@energy.state.ca.us, mark.osterholt@mirant.com, michaelboyd@sbcglobal.net, michael.Carroll@lw.com, paula.Fernandez@sfgov.org, SarveyBob@aol.com, sharris@energy.state.ca.us, rsmith@sfwater.org, svalkosky@energy.state.ca.us, rstepp@sfwater.org, steve@deyoung.org, steven@sfpower.org

Attached please find the electronic copy of the Opening Brief for the City and County of San Francisco.

Jeannette Harris  
CH2M HILL  
2485 Natomas Park Dr., Ste. 600  
Sacramento, CA 95833  
Phone: 916-286-0313

Attachments Attachment scanning provided by:

Files:

04afc1\_06\_26\_06\_JHarris\_OpeningBrief.pdf (459k) Scan and Save to Computer - Save to Yahoo! Briefcase

04afc1\_06\_26\_06\_JHarris\_OpeningBrief\_EPOS.doc (78k) [Preview] Scan and Save to Computer - Save to Yahoo! Briefcase

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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 10<sup>th</sup> day of July 2006, at Soquel, California.



Michael E. Boyd – President, CARE  
CALifornians for Renewable Energy, Inc. (CARE)  
5439 Soquel Dr.  
Soquel, CA 95073-2659  
Tel: (408) 891-9677  
Fax: (831) 465-8491  
E-mail: [michaelboyd@sbcglobal.net](mailto:michaelboyd@sbcglobal.net)