

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

DATE Jul 13 2006

RECD. Jul 13 2006

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State of California  
Energy Resources Conservation  
and Development Commission

In the matter of

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Docket No. 04-AFC-1

**San Francisco Electric Reliability Project  
Power Plant Licensing Case**

**Request for Committee Conference**

7-13-06

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Intervenor Sarvey hereby objects to the late filing of the Energy Commission Staff's brief on July 11, 2006 at 5:03 PM. The committee's ruling on May 31, 2006 (RT 5-31-06) clearly requires filing of reply briefs by the close of business (5:00PM) on July 10, 2006. I appreciate that staff unlike the applicant has followed the required procedure of requesting leave for late filing. Staff's filing "responding to issues raised in the opening briefs of intervenors Sarvey and CARE" violates the rights of the parties whose staff's reply brief addresses. Intervenors are prejudiced by staff's late filing in that staff received 24 hours and three minutes to review intervenors reply briefs and respond. Staff has at its disposal several very qualified attorneys. By allowing staff or applicant to analyze intervenors reply brief's for 24 hours or 53 minutes before filing clearly prejudices intervenors rights to due process. Staff's excuse for its late filing is not convincing. "Staff acknowledges the importance of adhering to the Committee's schedule of due dates. In this one instance, however, circumstances were such that **vacations, the recent interim departure of Staff Counsel in the case, and other pressing assignments resulted in a regrettable oversight** of not filing the brief on July 10, 2006." The Energy Commission Staff's failure to meet the Committee's order is more than a mere oversight and probably was induced by the applicant's late filing of his opening brief with no repercussions.(1) The committee through the willful disregard of its orders by staff and applicant has lost control of this siting case. Intervenor respectfully requests a conference with the committee to discuss these issues and an equitable solution for the aggrieved parties Intervenor Sarvey and CARE.

1) The Committee has incorrectly ruled 7-5-06 that intervenor did not timely file his opening to applicant counsel. Intervenor emailed opening brief to Commissions Docket unit at 9:55 AM July 26, 2006 in compliance with committee's ruling "Order granting petition to intervene with financial hardship." Dated June 22, 2004 which provides "**Staff, through the Docket Unit or other appropriate entity, shall ensure Petitioners filings are timely distributed.**"