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04-AFC-1
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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 and Protest to May 1, 2006 evidentiary hearing

In behalf of CAlifornians for Renewable Energy, Inc. (CARE) and other members of the public we respectfully object and protest the Committee's failure to provide members of CARE and other members of the public access to the evidentiary hearing via teleconference at the May 1, 2006 hearing on the impact of the proposed San Francisco Energy Reliability Project on Local System Effects.

Record of conversation with Public Advisor's Office

At approximately 8:20 AM this morning I contacted the PAO to confirm the telephone number I was provided on April 27, 2006 at 10 AM was the correct number for calling in to the evidentiary hearing today. I asked that someone call me back immediately once they confirmed the number wouldn't work. At approximately 11 AM Nick from the PAO's office called me to inform me that the number provided (916) 653-2405 was not a conference call number and only one person could use the phone line at a time. Nick confirmed for me that a member of the public, Mr. Francisco DaCosta was on the phone.

Offer of Proof

I had pre-arranged with CARE's Vice President Lynne Brown to call the number to ask prepared questions of the witnesses, but since the line was busy Mr. Brown was unable to do so. As an Offer of Proof I provide the following questions Mr. Brown was planning on asking the witnesses.

Ask if they got the testimony of Martin Homec of the CPUC on April 27, 2006 on purpose and need and local system effects of siting the combustion turbines at the airport versus the proposed site near residential housing? Ask them if they will accept Opening Testimony filed on April 17, 2006 along with Martin Homec's Testimony and resume filed on April 27, 2006? Ask them if they would like you to have your witness, Martin Homec, to appear at the May 22nd evidentiary hearings in San Francisco? Suggest it be located at the CPUC building.

Questions for Applicant CCSF's witness Barry Flynn on Local System Effects

Mr. Flynn weren't you a witness for the City on the Jefferson Martin Transmission line a 230 Kilovolt PG&E constructed line between the Jefferson and Martin substation in San Francisco?

Mr. Flynn where you aware of the fact that myself and my organization brought a civil rights complaint under Title VI of the federal Civil Rights Act of 1964 against the City and County of San Francisco [CCSF] and the California Energy Commission [CEC] (File No: 03-003-HQ) with the US DOE, and US DOJ in June 2003 related to this project's siting in my community?

Where you aware that we have amended this complaint on March 16, 2006 for what we allege is a conspiracy with the power plant Applicant CCSF, and the CEC, to deprive CARE and its members of their civil and constitutional rights to a fair hearing on this matter before the Commission siting Committee, and the Commission?

Are you aware of the Code of Federal Regulations Sections 241 and 242 under Title 18? Section 241 makes it unlawful for two or more persons to agree together to injure, threaten, or intimidate a person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the Unites States, and section 242, is the one that says that a government official can't act to deprive you of your rights to act pursuant to laws?

[If they give you a hard time demand to read the two code sections in to the record.]

CONSPIRACY AGAINST RIGHTS

Summary:

Section 241 of Title 18 is the civil rights conspiracy statute.
Section 241 makes it unlawful for two or more persons to agree together to injure, threaten, or intimidate a person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the Unites States, (or because of his/her having exercised the same). Unlike most conspiracy statutes, Section 241 does not require that one of the conspirators commit an overt act prior to the conspiracy becoming a crime.

DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Summary:

Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within the their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties.

Mr. Flynn where you aware that our civil rights complaint is based on actions the City is taking to site their Peakers in my community, and because the California Independent System Operator (Cal-ISO) has a discriminatory reliability standard for San Francisco that currently requires siting your Peakers here or is this because the City and Cal-ISO are involved in a conspiracy together to violate my civil and constitutional rights?

Is this because I am a black person and you are racists? What justification do you have for holding this hearing in Sacramento which precludes the participation of other members of my low-income community of color of Bay View Hunters Point in San Francisco, not just me as an individual?

Why didn't the applicant ask the Cal-ISO to address siting the entire facility at the airport as our witness Mr. Homec stated in his testimony?

Was any cost benefit analysis done to factor the cost of transmission upgrades required to site all four combustion turbines at the airport in comparison to the cost of performing a Remedial Investigation, a Baseline Risk Assessment, and carrying out a Remedial Action Plan to remove the partially characterized soil contamination discovered at the proposed project site at Pier 80?

Questions for CEC Staff sponsored Cal-ISO witness Larry Tobias on Local System Effects

Mr. Tobias weren't you a witness for the City on the Jefferson Martin Transmission line a 230 Kilovolt PG&E constructed line between the Jefferson and Martin substation in San Francisco?

Mr. Tobias is it your testimony that bringing the CCSF combustion turbines online will allow the release of Potrero Power Plant Unit #3 from its RMR contract and are required to mitigate for potential overloading the Newark Ravenswood 230 kV line upon an outage of the Tesla-Ravenswood 230 kV line?

Is it your testimony that <u>only</u> the Potrero Power Plant owner, Mirant, can decide to retire their generation units?

Has Mirant indicated in any way to the Cal-ISO that it would like to retire any of its Potrero Power Plant generation units, including unit #3?

Mr. Tobias where you aware of the fact that myself and my organization brought a civil rights complaint under Title VI of the federal Civil Rights Act of 1964 against the California Independent System Operator Corporation [Cal-ISO] the City and County of San Francisco [CCSF] and the California Energy Commission [CEC] (File No: 03-003-

HQ) with the US DOE, and US DOJ in June 2003 related to this project's siting in my community?

Mr. Tobias, are you a government employee or do you work for a corporation?

Mr. Tobias didn't the applicant ask the Cal-ISO to address siting the entire facility at the airport as our witness Mr. Homec stated in his testimony?

Why not, is this because the California Independent System Operator (Cal-ISO) has a discriminatory reliability standard for San Francisco that currently requires siting the CCSF Peakers here in my neighborhood or is this because the City and Cal-ISO along with the CEC are involved in a conspiracy together to violate my civil and constitutional rights in violation of 18 CFR 241 and 18 CFR 242?

Did you perform any cost benefit analysis to factor the cost of transmission upgrades required to site all four combustion turbines at the airport in comparison to the cost of performing a Remedial Investigation, a Baseline Risk Assessment, and carrying out a Remedial Action Plan to remove the partially characterized soil contamination discovered at the proposed project site at Pier 80?

In assessing the local system reliability of the continued operation of the Potrero Power Plant generating units in comparison with the proposed Peakers project did you assess the impacts of fuel sources for this generation on local system reliability, with Mirant's generation not being limited to natural gas fuel, while the proposed Peakers would be limited to natural gas as a fuel source?

Mr. Tobias to your knowledge has PG&E asked for these Peakers to be sited at the proposed Pier 80 location for any economic or reliability reasons you are aware of?

Mr. Tobias has Cal-ISO performed any cost assessment on how much the project's electricity will cost PG&E's ratepayers through increased rates?

Mr. Tobias will this new energy show up as an increased DWR surcharge or as a separate line item on my monthly PG&E bill?

How does the Cal-ISO get paid for the cost of this new generation to ratepayers?

Does anyone represent low-income people of color like me on the Cal-ISO board of governors? Why not?

Conclusion

It is not the duty of CARE or other members of the public to request in advance a conference call in number be provided to insure our meaningful and informed public participation in the Commission's evidentiary hearing process. Mr. Brown who is a low-income person of color has objected already to the evidentiary hearings being located in Sacramento California. Therefore we respectfully object to and protest the failure of the Committee to provide CARE, its members, and other interested members of the public telephone access to the May 1, 2006 evidentiary hearing. We respectfully request that the Local System Effects witnesses, including the CAISO witness, be recalled to appear at the Committee's next evidentiary hearing on May 22, 2006 in San Francisco so as to be cross examined by CARE.

Respectfully submitted,

Michael E. Boyd

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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 1st day of May 2006, at Soquel, California.

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
DOCKET UNIT, MS-4
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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, **Dora Gomez**, declare that on **May 2, 2006**, I deposited copies of the attached **RE: Objections and Protest to May 1, 2006 Evidentiary Hearing**, 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.

Dora Gomez

[signature]

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