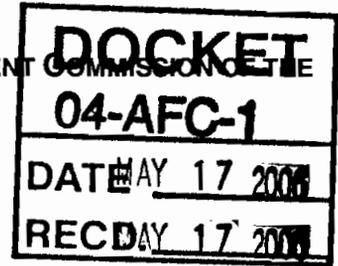


BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE  
STATE OF CALIFORNIA



IN THE MATTER OF:

APPLICATION FOR CERTIFICATION FOR THE  
SAN FRANCISCO ELECTRIC RELIABILITY  
PROJECT

DOCKET No. 04-AFC-1

**COMMITTEE RULING RE: CARE REQUEST TO RECALL WITNESSES**

**I. BACKGROUND**

On April 10, 2006, the Committee issued a Notice announcing that it would hold evidentiary hearings on April 27 and May 1, 2006. The topic of "Local System Effects" was among those scheduled for the latter hearing day. The Notice contained no provision for teleconference participation by parties or members of the public.

On the day of the first hearing (April 27, 2006), the Public Adviser's Office provided intervenor Californians for Renewable Energy (CARE) a telephonic call-in number. CARE did not use the number during the first day's hearing. Shortly before the start of the May 1, 2006 hearing, CARE requested that a multi-party, rather than a single-party, conference line be made available. Due to time constraints, however, a multi-party line could not be arranged, and CARE did not cross-examine the Applicant and the Staff witnesses who testified on Local System Effects.

In a document entitled, "Objections and Protest of May 1, 2006 Evidentiary Hearing", CARE asserts that "[i]t is not the duty of CARE or other members of the public to request in advance a conference call number be provided..." to insure that those not present at a hearing can participate (Objections, p. 3). CARE therefore requests that the Local System Effects witnesses be recalled for cross-examination at the May 22, 2006 hearing.

In a May 8, 2006 filing, intervenor Sarvey supports CARE's position. Staff opposes recalling the witnesses in question (May 5, 2006 Commission Staff Response).

## II. DISCUSSION

As Staff points out in its Response, there is simply no legal obligation to provide last-minute telephone access to Committee hearings. While the Commission goes to great lengths to make participation in its processes as convenient as reasonably possible, this convenience is a matter of comity not of right. Under the facts before us, CARE had from April 10, 2006 (the date of the Notice) to request a multi-party conference line. It chose to wait until shortly before the beginning of the hearings to make its request. This simply did not provide sufficient time to make necessary technical prearrangements. CARE cannot now attempt to shift the burden for the lack of a multi-party line at the May 1 hearing to the Commission. This is an attempt to assert a right where none exists. It is our view that unless otherwise stated in a notice, those desiring telephonic access to a hearing must clearly request such access a reasonable time in advance of such hearing. One or two hours before the commencement of an event, as in the present case, is simply not a reasonable time.

It therefore follows that, having unreasonably delayed in seeking teleconference access to the May 1, 2006 hearing and having chosen not to appear in person, CARE has effectively waived its right to cross-examine the witnesses for Local System Effects. The topic is now closed and there is not reason to recall these witnesses.

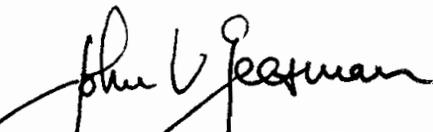
## III. RULING

CARE's request to recall the witnesses who testified on Local System Effects is DENIED.

Dated May 17, 2006, at Sacramento, California.



JAMES D. BOYD  
Commissioner and Presiding Member  
San Francisco Electric Reliability Project AFC Committee



JOHN L. GEESMAN  
Commissioner and Associate Member  
San Francisco Electric Reliability Project AFC Committee

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**

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**Sacramento, CA 95814-5512**

*Also send a printed or electronic copy of all documents to each of the following:*

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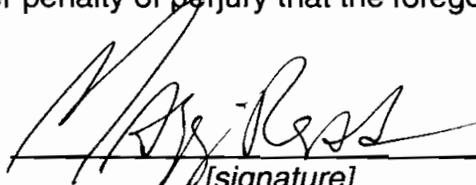
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**DECLARATION OF SERVICE**

I, Maggie Read, declare that on May 17, 2006, I deposited copies of the attached Committee Ruling Re: CARE Request to Recall Witnesses, 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.

  
\_\_\_\_\_  
[signature]

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