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

DOCKET
04-AFC-1
DATE MAY 17 2006
RECD. MAY 19 2006

IN THE MATTER OF:

APPLICATION FOR CERTIFICATION FOR THE SAN FRANCISCO ELECTRIC RELIABILITY PROJECT

DOCKET NO. 04-AFC-1

RULING RE SUBPOENA FOR RWQCB WITNESS

I. BACKGROUND

On May 12, 2006, Intervenor Californians for Renewable Energy (CARE) filed a document entitled "Request for Subpoena of Nancy Katyl, California Regional Water Quality Control Board." The gist of this filing is to require that Ms. Katyl testify on the topic of "Alternatives" at the May 22, 2006, Evidentiary Hearing. In CARE's words, ". . . Ms. Katyl is needed to provide rebuttal testimony in the form of the description of the RWQCB's [Regional Water Quality Control Board] SLIC (Spills, Leaks, Investigations and Cleanups) program . . .". Ms. Katyl has apparently declined CARE's invitation to appear.

The RWQCB objected to the subpoena request on May 17, 2006.

II. DISCUSSION

CARE bases its request on the perceived need to rebut testimony on the topic of "Soil and Water Resources". This topic is not scheduled to be heard until May 22, 2006. Although CARE also apparently desires clarification of the RWQCB's SLIC program, it is not apparent that Ms. Katyl is the only person capable of providing this information. In its Response, the RWQCB effectively counters CARE's reasons for seeking to subpoena Ms. Katyl.

We conclude that CARE has not adequately supported its subpoena request. We realize, however, that the area of Soils and Water encompasses a role for the RWQCB. We also believe that the record could benefit from an explanation of this role and its relationship to proposed Conditions of Certification.

Therefore, we accept the RWQCB's offer of a witness in lieu of Ms. Katyl. Staff shall coordinate with the RWQCB to ensure that such witness is available during the Soil and Water Resources portion of the upcoming evidentiary hearings.

III. RULING

The Request to Subpoena Ms. Katyl is DENIED. Another knowledgeable RWQCB witness shall be available during the portion of the upcoming evidentiary hearings devoted to Soil and Water Resources.

Dated May 19, 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

Proof of Service List (Revised on 5/19/06) filed with Original Document. Mailed from Sacramento on 5/19/06).

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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
1516 Ninth Street
Sacramento, CA 95814-5512

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

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DECLARATION OF SERVICE

I, Kate Nicholls, declare that on May 19, 2006, I deposited copies of the attached **RULING RE SUBPOENA FOR RWQCB WITNESS**, 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]