

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

**APPLICATION FOR
CERTIFICATION FOR THE
CHULA VISTA ENERGY UPGRADE
PROJECT**

DOCKET NO. 07-AFC-4
(AFC Filed 8/10/07)

DOCKET	
07-AFC-4	
DATE	<u>JUN 15 2009</u>
RECD.	<u>JUN 15 2009</u>

**MMC ENERGY, INC.'S COMMENTS REGARDING
COMMISSION CONSIDERATION OF THE
PRESIDING MEMBER'S PROPOSED DECISION**

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Dated: June 15, 2009

On June 17, 2009, the Commission is scheduled to take action on the Presiding Member's Proposed Decision ("PMPD") on the application for certification that MMC Energy, Inc. ("MMC Energy") has submitted for the Chula Vista Energy Upgrade Project ("Upgrade Project").

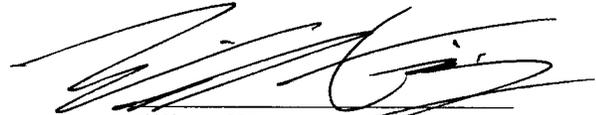
If the Commission adopts the PMPD it will take the unprecedented step of denying certification of a project that has the support of the Commission Staff and officials of the local government where the project would be located. It will also act in a manner that is contrary to state energy policy because: (1) the Upgrade Project is a proposed upgrade of an existing power plant on a brownfield site; and (2) the Upgrade Project would supply peaking power to the San Diego region which would facilitate retirement of the aging and inefficient South Bay Power Plant, also located in Chula Vista.

The PMPD does correctly conclude that the Upgrade Project would have no significant impact on the environment or public health. But, the PMPD nonetheless recommends denial of the application because of an alleged failure to comply with certain planning and zoning laws of the City of Chula Vista which allegedly prevent the Commission from making the finding that the Project would comply with laws, ordinances, regulations, and standards ("LORS").

MMC Energy, the Commission Staff, and officials of the City of Chula Vista have already submitted exhaustive comments on the shortcomings of the PMPD. MMC

Energy will not repeat its comments here.¹ Instead, MMC Energy incorporates those comments by reference and urges the Commission to reject the PMPD for the reasons stated therein.

Respectfully submitted,



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¹ See *MMC Energy's Comments on the Presiding Member's Proposed Decision*, dated March 16, 2009, and *MMC Energy's Reply Comments on the Presiding Member's Proposed Decision*, dated March 30, 2009, both of which were filed in Docket No. 07-AFC-4.

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**PROOF OF SERVICE
(Revised 2/10/09)**

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Declaration of Service

I, Lois Navarrot, declare that on June 15, 2009, I served and filed copies of the attached **MMC ENERGY, INC.'S COMMENTS REGARDING COMMISSION CONSIDERATION OF THE PRESIDING MEMBER'S PROPOSED DECISION**. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: www.energy.ca.gov/sitingcases/chulavista. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service List) and to the Commission's Docket Unit, in the following manner:

(check all that apply)

For Service to All Other Parties

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service List above to those addresses **NOT** marked "email preferred."

AND

For Filing with the Energy Commission

sending an original paper copy and one electronic copy, mailed and e-mailed respectively, to the address below (preferred method);

OR

_____ depositing in the mail an original and 12 paper copies as follow:

California Energy Commission
Attn: Docket No. 07-AFC-4
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

/s/
Lois Navarrot