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June 27, 2008

DOCKET	
07-AFC-6	
DATE	JUN 27 2008
RECD.	JUN 27 2008

Docket Office
California Energy Commission
1516 Ninth Street, Docket No. 07-AFC-6
Sacramento, CA 95814

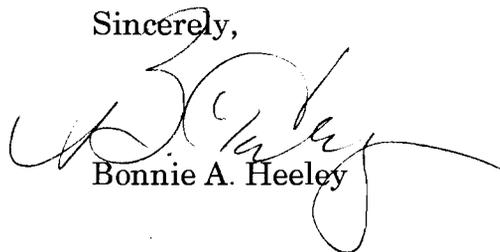
Re: Docket No. 07-AFC-6; Carlsbad Energy Center Project

Dear Docket Office Clerk:

Enclosed are two copies of CURE's comments on the Carlsbad Energy Center Project with an original Declaration of Service attached. This document was previously emailed to the Docket Office.

Please process the document and return a conformed copy in the envelope provided. Thank you for your assistance

Sincerely,



Bonnie A. Heeley

:bah
Enclosures

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June 27, 2008

Mike Monasmith
Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Carlsbad Energy Center Project (07-AFC-6) – Land Use LORS
Determination

Dear Mr. Monasmith:

On behalf of California Unions for Reliable Energy (CURE), we submit the following comments concerning the land use-planning component of the Commission staff's evaluation of the Carlsbad Energy Center Project (CECP). On March 26, 2008, your office asked the City of Carlsbad to analyze for staff whether the City considered the proposed CECP to be consistent with the City's existing land use ordinances, plans and policies. Specifically, Commission staff identified multiple land use documents that potentially governed the site. Staff requested that the City assess the particular documents' applicability from the viewpoint of the City as the project-approving agency.

On May 1, 2008, the City responded and concurred with staff that there are six applicable planning documents and policies that pertain to the CECP site.¹ The City went on to detail the status, specific applicability and interrelationship of the various documents. Significantly, the City emphasized that were it the approving agency rather than the Commission, it could not take action on NRG's application due to lack of information, i.e., from a land use perspective, NRG's application is incomplete.²

¹ Letter to Mike Monasmith, CEC Project Manager, from Joe Garuba City of Carlsbad Municipal Projects Manager, at p. 2 (May 1, 2008) ("City Letter").

² Id.

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The most notable information gap is the lack of a specific plan for the 680-acre planning area that encompasses the CECP project area and the existing Encina Power Station (referred to as the Encina Specific Plan, or SP 144). The City cannot evaluate the proposed CECP from a land use perspective because SP 144 has not been properly updated. According to longstanding City policy, a comprehensive update of the entire SP 144 planning area is required for any development proposal.³ Such an update must be applicant-prepared.⁴ NRG disregarded this requirement, and simply submitted a project level amendment to SP 144. Because the City cannot analyze the CECP within the context of the entire SP 144 area, the City cannot determine the project's compatibility with other land use goals. In short, it appears the City and NRG are at a land use-planning impasse.

This lack of information presents an obstacle for staff's LORS assessment because staff does not have sufficient information to make a LORS determination one way or the other regarding whether the project is consistent with local plans, ordinances and policies; similarly, staff cannot determine whether the project is compatible with existing and/or planned land uses.

Given this lack of essential information, staff should recommend that the Commission require NRG to finish the SP 144 update as set forth in City Council Resolution 98-145. Otherwise, the Commission will not be able to make a fully informed decision on the land use component of the CECP. In sum, CURE urges the Commission to honor the City's land use planning rules by ensuring that NRG complete the SP 144 update as part of the CEC licensing process.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Gloria D. Smith

GDS:bh
Cc: Via email to 07-AFC-6 Service List

³ City Letter at p. 4.

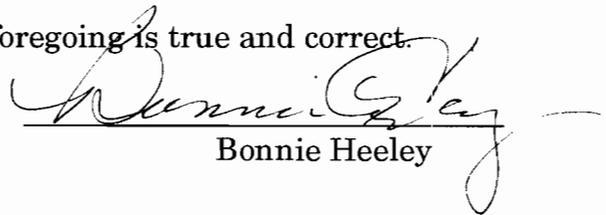
⁴ City Council Resolution No. 98-145.

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DECLARATION OF SERVICE

I, Bonnie Heeley, declare that on June 27, 2008, I transmitted via email copies of the attached comments on behalf of CURE to the service list for 07-AFC-6. Transmission was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5 and 1210. All electronic copies were sent to all those identified below.

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



Bonnie Heeley

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Via U.S. Mail:

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