City of Carlsbad
Office of the City Manager

DOCKET
07-AFC-6
DATE Nov 21 2008
RECD. Nov 21 2008

November 21, 2008

In the Matter of:

The Application for Certification for the CARLSBAD ENERGY CENTER PROJECT

Docket No. 07-AFC-6

RESPONSE IN SUPPORT OF MOTION TO COMPEL BY THE CITY OF CARLSBAD

The City of Carlsbad urges the California Energy Commission to compel NRG West (Applicant) to comprehensively respond to the data requests submitted by the Center for Biological Diversity (Center). The City of Carlsbad concurs with the persuasive arguments that other interveners have put forth as to why the Center's data requests are valid, appropriate, and timely. In an effort to avoid redundant arguments on this issue, the City would offer the following additional reasons why the Commission should require the applicant to provide the information requested by the Center.

1. Information contained in the Application for Certification is incomplete. Since the filing of the AFC, the methodology used to calculate the Applicant's air emissions has changed. This change in methodology specifically addresses the existing Encina Generation Units #1-3 and the air credits, including Green House Gases (GHG) that are available to the Applicant. It is clear that reapplying the new methodology to the GHG calculations will negatively impact the Applicant.

2. The Applicant's filing in July 2008 of its Project Enhancement and Refinement document contained significant project changes that include the use of desalinated water for its project water supply. As the Commission is aware, the desalination process is extremely energy intense and should be reflected in the Applicant's GHG analysis.

3. The City disagrees with the Applicant's assertions that it has complied with the CEC and the CEQA thresholds for GHG analysis. Specifically, the City finds the language used by the Applicant objectionable in substantiating its position as contained on Page 5.1-61 of the AFC Volume 1, which states "Because GHG emissions can affect climate change on only a global basis, and the project's GHG emissions are not substantial compared to global emissions, the cumulative impact of the project's GHG emissions is less than significant." The City believes that the Applicant's position on GHG emissions and CEQA relevancy is inconsistent with that of the State of California as evidenced by numerous State Attorney General filings.

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4. Although the Applicant states that the CEC does not have a mechanism to specifically address GHG emissions, the California State Lands Commission (SLC) does. This is relevant because the Applicant, as required by its lease agreement with the State Lands Commission, is required to attain approval for any desalination plant they would want to construct at that site. Recently, in a separate but germane precedent, the SLC required Poseidon Resources, which has been authorized to construct its own desalination plant as a condition of their lease agreement, to offset its project's carbon footprint. It is reasonable to assume that since the Poseidon project is on the same location and uses the same infrastructure that the proposed CECP occupies, the SLC will require consistent lease conditions, which may include project carbon neutrality. If this were to occur, it would be important to incorporate the full scope of the CECP's GHG emissions for consideration by the SLC.

Joe Garuba
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cc: Proof of Service List

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
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APPLICATION FOR CERTIFICATION FOR THE *CARLSBAD ENERGY CENTER PROJECT*

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 11/19/2008)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-6
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DECLARATION OF SERVICE

I, Andrea Dykes, declare that on 11/21/08, I deposited copies of the attached document in the United States mail at Carlsbad, CA with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail 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 on the Proof of Service list above.

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

Andrea Dykes

*indicates change