DOCKET
07-AFC-6
DATE DEC 07 2009
RECD. DEC 08 2009

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE
CARLSBAD ENERGY CENTER PROJECT

DOCKET NO. 07-AFC-6

NOTICE OF PREHEARING CONFERENCE AND EVIDENTIARY HEARINGS

PLEASE TAKE NOTICE that, the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **CARLSBAD ENERGY CENTER PROJECT** has scheduled a Prehearing Conference and Evidentiary Hearings as follows:

A *Prehearing Conference* will be conducted on:

***Thursday*, January 21, 2010**
Beginning at 9 a.m.

California Energy Commission
Hearing Room A
1516 Ninth Street
Sacramento, CA 95814

Evidentiary Hearings will be conducted on:

***Monday*, February 1, 2010**
Beginning at 10:30 a.m.
Public Comment Period begins at 6 p.m.

***Tuesday*, February 2, 2010**
Beginning at 9 a.m.
Public Comment Period begins at 6 p.m.

and, continuing, if necessary, on:

***Wednesday*, February 3, 2010**
Beginning at 9 a.m.

***Thursday*, February 4, 2010**
Beginning at 9 a.m.

Hilton Garden Inn
Ballroom Building
6450 Carlsbad Blvd
Carlsbad, CA 92011

If necessary, off-site parking with complementary shuttle to the hearing room will be provided.

Please note that the Committee may, in appropriate circumstances, continue the hearings into the evening hours. Specific periods for the receipt of public comment have been set aside during Monday and Tuesday evenings as noted above. Public comments may also be taken at other times in the Committee's discretion.

Pursuant to section 1213 of the Commission's regulations, the Committee intends to take Official Notice of the report issued by the Commission's Siting Committee entitled:

> *COMMITTEE GUIDANCE ON FULFILLING CALIFORNIA ENVIRONMENTAL QUALITY ACT RESPONSIBILITIES FOR GREENHOUSE GAS IMPACTS IN POWER PLANT SITING APPLICATIONS.*

The report was issued in March 2009 and is found on the Commission website at: http://www.energy.ca.gov/2009publications/CEC-700-2009-004/CEC-700-2009-004.PDF

PLEASE TAKE NOTICE that the Committee has established the following filing schedule:

ITEM	***DATE***
Staff publishes Final Staff Assessment/Draft Environmental Impact Statement (FSA/DEIS)	Wednesday, November 12, 2009
Applicant's opening testimony, witness list, and preliminary identification of contested issues filed	Tuesday, December 15, 2009
Last day to file Petitions to Intervene	Monday, January 4, 2010
Staff and other parties file opening testimony, witness lists, and preliminary identification of contested issues	Wednesday, January 6, 2010
All parties file rebuttal testimony, identify which materials referenced in other parties' opening testimony they want copies of, and file Prehearing Conference Statements	Thursday, January 14, 2010
All requested material is filed and served on all other parties	Wednesday, January 20, 2010
Prehearing Conference	Thursday, January 21, 2010
Evidentiary Hearings	Monday, February 1 - Thursday, February 4, 2010

Purpose of Prehearing Conference

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an evidentiary hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the certification process. (Cal. Code Regs., tit. 20, § 1718.5.)

At the Prehearing Conference, all parties (Staff, Applicant, and Intervenor) shall present their respective positions regarding: the substantive topic areas ready for evidentiary hearing; those topics that require further analysis, including the nature of, and time frame for, any such analysis; the topic areas that have been resolved; and the topic areas that are disputed and require adjudication. The parties shall also identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

Local, state, and federal governmental agencies may participate at the Prehearing Conferences and Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20, § 1714.5.) Elected officials and members of the public may present public comments at these events and/or submit written comments to the Energy Commission's Docket Unit. Please include "Docket No. 07-AFC-6" on any written comments.

Prehearing Conference Statements

To facilitate the process, each party shall serve and file a **Prehearing Conference Statement** containing all of the information described below, which shall be received by mail or email by the other parties and the Commission's Docket Unit by **4 p.m. on January 14, 2010**. The parties shall submit a WORD version of their statements to the Hearing Officer via email.

Each statement shall specify:

1. The topic areas that are complete and ready to proceed to evidentiary hearing;

2. The topic areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefor;

3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;

4. The identity of each witness sponsored by each party (**note**: expert witnesses must have professional expertise in the scope of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness;

5. The identities of the witnesses, if any, that the party desires to have testify via telephone;

6. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination;

7. A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply (**see** following *section* on format);

8. Proposals for briefing deadlines, vacation schedules, and other scheduling matters; and

9. A description of any modifications to the Conditions of Certification listed in the Final Staff Assessment that the party intends to propose.

Format for Presenting Evidence

The parties shall provide written testimonial and documentary evidence in two formats.

1. Each document shall be numbered and identified on an **Exhibit List**.

   - Applicant's exhibits shall be numbered consecutively as ***Exhibits 1 through 199***.
   - Staff's exhibits shall be numbered consecutively as ***Exhibits 200 through 299***.
   - Intervenor Terramar Association's exhibits shall be numbered consecutively as ***Exhibits 300 through 399.***
   - Intervenor City of Carlsbad/ South Carlsbad Coastal Redevelopment Agency's exhibits shall be numbered consecutively as ***Exhibits 400 through 499.***
   - Intervenor CURE's exhibits shall be numbered consecutively as ***Exhibits 500 through 599***.
   - Intervenor Center for Biological Diversity's exhibits shall be numbered consecutively as ***Exhibits 600 through 699.***
   - Intervenor Power of Vision's exhibits shall be numbered consecutively as ***Exhibits 700 through 799***.
   - Intervenor Rob Simpson's exhibits shall be numbered consecutively as ***Exhibits 800 through 899***.

   Printed or electronic (i.e., compact disk) copies of the Exhibits shall be provided to the Committee and other parties no later than 4 p.m. on the dates set forth in the filing schedule table, above. In addition, a printed copy of all exhibits shall be provided to the Hearing Officer no later than January 21, 2010.

2. To facilitate the Committee's efficient organization and review of the Project, printed copies of the exhibits for each topic area shall ***also*** be compiled in separate file folders designated by topic with the appropriate Exhibit Number attached to each document. This compilation shall include all opening and rebuttal testimony filed by the party and shall be provided to the Hearing Officer **no later than January 21, 2010**.

Petitions to Intervene to Become a Formal Party

The Energy Commission's Decision on the Carlsbad Energy Center Project (CECP) will be based on the official evidentiary record developed at the Evidentiary Hearing. Only formal parties (Applicant, Staff, and Intervenors) may present evidence and cross-examine witnesses at the Evidentiary Hearing. Public comment may not, by itself, support a finding or conclusion in the Decision but it can supplement formal written or oral testimony.

Anyone with an appropriate interest in the CECP may file a Petition to Intervene and become a formal party. At the Evidentiary Hearing, a formal party may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with Committee orders, procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties.

The deadline to file a Petition to Intervene in this case is **5 p.m., Monday, January 4, 2010.** Petitions filed after that date and time extensions for new Intervenors to review case materials will be granted only upon a showing of extraordinary good cause. Intervenors will take the case as they find it at the time intervention is granted. For example, if the deadline for filing opening testimony has passed, the newly approved Intervenor will not be allowed to file opening testimony. Persons interested in obtaining intervenor status are therefore encouraged to file their petitions as soon as possible.

How to Intervene

The Energy Commission's Public Adviser's office will assist any person or organization interested in preparing a Petition to Intervene. For assistance in this process, contact the Public Adviser's office at (916) 654-4489 or (800) 822-6228 or e-mail: **[publicadviser@energy.state.ca.us]**.

Public Participation and Public Adviser

Members of the public are welcome to attend and offer comments at the Prehearing Conference and the Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process.

The Energy Commission Public Adviser's Office is available to assist the public in participating in the application review process. For those individuals who require general information on how to participate, please contact the Public Adviser's Office as described above.

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz at (916) 654-5146 or e-mail: **[lquiroz@energy.state.ca.us]**.

Information

Questions of a legal or procedural nature should be directed to Paul Kramer, the Hearing Officer, at (916) 654-5103 or e-mail: **[pkramer@energy.state.ca.us]**.

Technical questions concerning the project should be addressed to Mike Monasmith, the Staff Project Manager, at (916) 654-4894, or e-mail: **[mmonasmi@energy.state.ca.us]**.

Media inquiries should be directed to the Office of Media and Public Communications at (916) 654-4989 or e-mail at: **[mediaoffice@energy.state.ca.us]**.

Information concerning the status of the project, as well as notices and other relevant documents, may be viewed on the Energy Commission's Internet web page at: **[www.energy.ca.gov/sitingcases/carlsbad]**.

Dated: December 7, 2009, at Sacramento, California.

JAMES D. BOYD
Vice Chair and Presiding Member
Carlsbad AFC Committee

KAREN DOUGLAS
Chairman and Associate Member
Carlsbad AFC Committee

Hilton Garden Inn
Carlsbad Beach

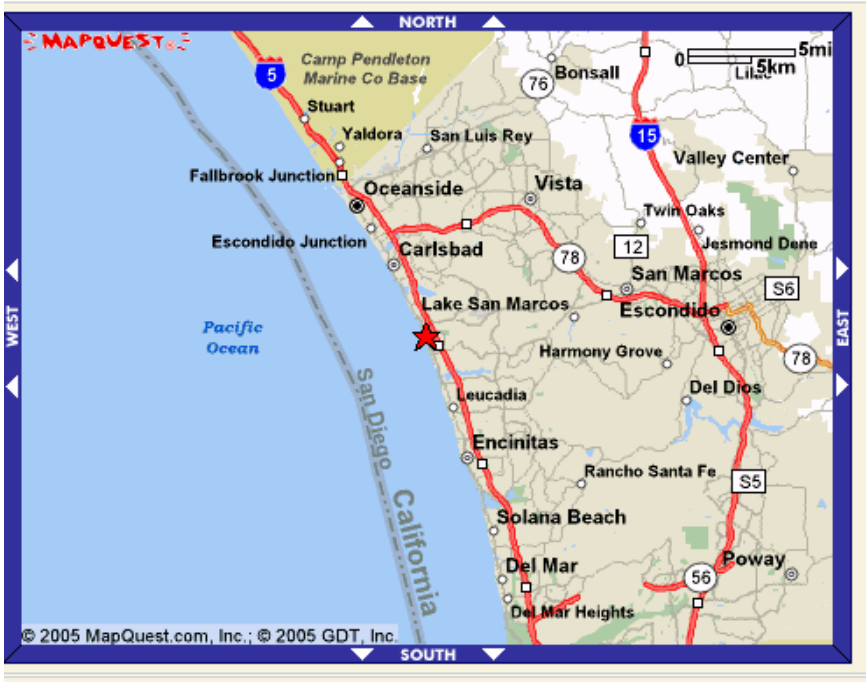
DRIVING DIRECTIONS

DIRECTIONS FROM SOUTH

From San Diego Area traveling Northbound, take Interstate 5 North. Drive North towards Carlsbad and exit Poinsettia Lane. Turn left (West) towards the ocean; turn right onto Carlsbad Blvd. (Pacific Coast Highway 101). Proceed onto Carlsbad Blvd. for approx. 1 mile, and turn right onto Solamar. The hotel's main entrance will be just ahead of you.

DIRECTIONS FROM NORTH

Take I-5 South towards San Diego. Exit Palomar Airport Road and turn right (West). Stay in the middle lane and follow Palomar Airport to the Ocean, until you will see a fork in the road with signs directing to Carlsbad Boulevard (or Pacific Coast Highway 101) North or South. Turn right on the fork to Carlsbad Boulevard South, the road will loop around and take you in front of the hotel. Turn left onto Solamar. The hotel's main entrance will be just ahead of you.



TheHiltonFamily

6450 Carlsbad Boulevard, Carlsbad, CA 92011
Tel: 760 476 0800 Fax: 760 476 0801
Reservations: www.hiltongardeninn.com or 1-877-STAY-HGI

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE *CARLSBAD ENERGY CENTER PROJECT*

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 12/8/2009)

APPLICANT

David Lloyd
George Piantka, PE.
Carlsbad Energy Center, LLC
1817 Aston Avenue, Suite 104
Carlsbad, CA 92008
david.lloyd@nrgenergy.com
george.piantka@nrgenergy.com

APPLICANT'S CONSULTANTS

Robert Mason, Project Manager
CH2M Hill, Inc.
6 Hutton Centre Drive, Ste. 700
Santa Ana, CA 92707
Robert.Mason@ch2m.com

Megan Sebra
CH2M Hill, Inc.
2485 Natomas Park Drive, Ste. 600
Sacramento, CA 95833
Megan.Sebra@ch2m.com

COUNSEL FOR APPLICANT

John A. McKinsey
Stoel Rives LLP
980 Ninth Street, Ste. 1900
Sacramento, CA 95814
jamckinsey@stoel.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

INTERVENORS

Terramar Association
Kerry Siekmann & Catherine Miller
5239 El Arbol
Carlsbad, CA 92008
siekmann1@att.net

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Allan J. Thompson
21 "C" Orinda Way #314
Orinda, CA 94563
allanori@comcast.net

*City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Joseph Garuba,
Municipals Project Manager
Ronald R. Ball, Esq., City Attorney
1200 Carlsbad Village Drive
Carlsbad, CA 92008
E-mail preferred
Joe.Garuba@carlsbadca.gov
*ron.ball@carlsbadca.gov

California Unions for Reliable Energy ("CURE")
Gloria D. Smith & Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
gsmith@adamsbroadwell.com

Center for Biological Diversity
c/o William B. Rostov
EARTHJUSTICE
426 17th St., 5th Floor
Oakland, CA 94612
wrostov@earthjustice.org

Power of Vision
Julie Baker & Arnold Roe, Ph.D.
4213 Sunnyhill Drive
Carlsbad, California 92013
powerofvision@roadrunner.com

Rob Simpson
Environmental Consultant
27126 Grandview Avenue
Hayward, CA 94542
rob@redwoodrob.com

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

KAREN DOUGLAS
Chair and Associate Member
kldougla@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

Mike Monasmith
Siting Project Manager
mmonasmi@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

Public Adviser's Office
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, Maggie Read, declare that on December 8, 2009, I served and filed copies of the attached, Notice of Prehearing Conference and Evidentiary Hearings. 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: **[http://www.energy.ca.gov/sitingcases/carlsbad/index.html].** 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:

(C*heck all that Apply*)

For service to all other parties:

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

_x__ 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:

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

OR

_____depositing in the mail an original and 12 paper copies, as follows:

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

Original signed by:_____
Maggie Read
Hearing Adviser's Office

*indicates change