



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

DOCKET

07-AFC-6

DATE DEC 21 2009

RECD. DEC 21 2009

APPLICATION FOR CERTIFICATION FOR THE
CARLSBAD ENERGY CENTER PROJECT

DOCKET No. 07-AFC-6

**REVISED NOTICE OF PREHEARING CONFERENCE
AND EVIDENTIARY HEARING**

(This Notice has been revised to add a teleconference number so parties and members of the public can remotely attend the Prehearing Conference in Sacramento. It also includes clarifications based on questions that the Hearing Officer has received and a notice of the Committee's intention to consider the use of informal hearing procedures for all or a portion of the Evidentiary Hearings, as it deems appropriate.)

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**

TELECONFERENCE OPTION: The following toll free phone number will be available at 9:00 a.m. for callers to participate in the Prehearing Conference.

Call: 1-800-369-2055
Use Passcode: WORKSHOP
Conference Leader: "Mr. Paul Kramer"

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
Wavecrest Ballroom
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 ¹ , 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.

¹ [This rebuttal testimony is meant to rebut the opening testimony filed by the Staff and other parties. Testimony intended to rebut the Applicant's opening testimony should be filed as part of the Staff and other parties' opening testimony.](#)

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;
9. A description of any modifications to the Conditions of Certification listed in the Final Staff Assessment that the party intends to propose; and
10. Any preferences or objections regarding the taking of testimony on particular topics in an informal manner as described below.

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., email or 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. If sent by email, a compact disk or paper copy shall also be placed in the first class or overnight mail by the deadline. 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**.

Notice of Committee's Intention to Use Informal Hearing Procedures

Pursuant to Government Code Section 11445.10 et seq. and section 1217 of the Commission's regulations, the Committee may conduct all or portions of the Evidentiary Hearings in an informal manner in which, for example but not by way of limitation, a panel of witnesses sponsored by a single party or by multiple parties testify at one time, with an exchange of questions and responses between the witnesses and counsel for the various parties substituting for formal direct and cross-examination. Any objections

to the taking of testimony in an informal manner shall be filed on or before the deadline for filing Prehearing Conference Statements (4 p.m. on January 14, 2010). The Parties are encouraged to comment on the appropriate format for informal hearings and identify the topics for which informal hearings are appropriate, in their Prehearing Conference Statements, above.

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: [\[lquiroz@energy.state.ca.us\]](mailto:lquiroz@energy.state.ca.us).

Information

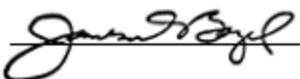
Questions of a legal or procedural nature should be directed to Paul Kramer, the Hearing Officer, at (916) 654-5103 or e-mail: [\[pkramer@energy.state.ca.us\]](mailto:pkramer@energy.state.ca.us).

Technical questions concerning the project should be addressed to Mike Monasmi, the Staff Project Manager, at (916) 654-4894, or e-mail: [\[mmonasmi@energy.state.ca.us\]](mailto: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: [\[mediaoffice@energy.state.ca.us\]](mailto: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: [\[www.energy.ca.gov/sitingcases/carlsbad\]](http://www.energy.ca.gov/sitingcases/carlsbad).

Dated: December 21, 2009, at Sacramento, California.



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



KAREN DOUGLAS
Chairman and Associate Member
Carlsbad AFC Committee

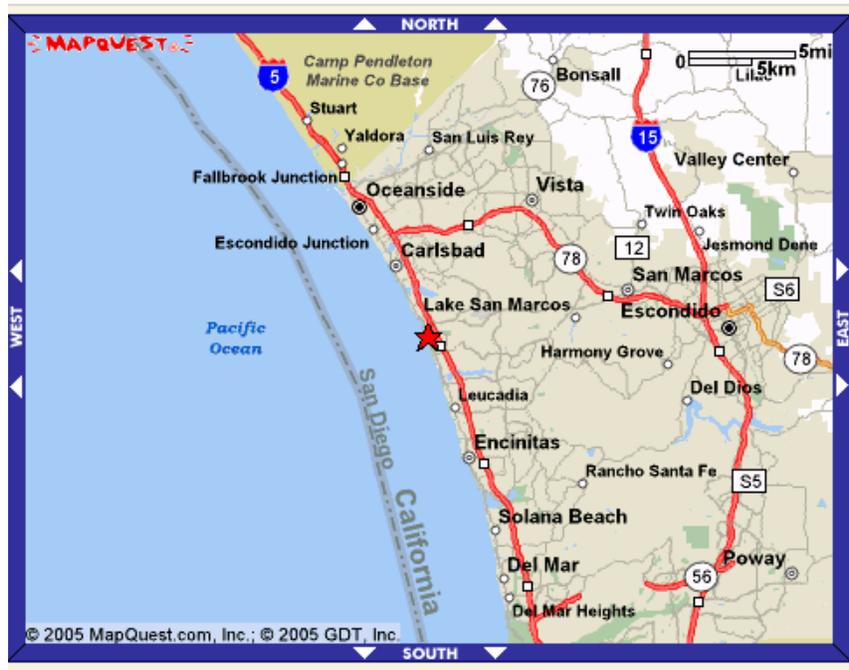
DRIVING DIRECTIONS

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.





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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

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INTERESTED AGENCIES

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INTERVENORS

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South Carlsbad Coastal
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DECLARATION OF SERVICE

I, Maggie Read, declare that on December 21, 2009, I served and filed copies of the attached, **REVISED** Notice of Prehearing Conference and Evidentiary Hearings, dated December 21, 2009. 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:

(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 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