

DOCKET

07-AFC-6

DATE JAN 30 2009

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STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

Application for Certification)
For the Carlsbad Energy Center) Docket 07-AFC-6
Project)
_____)

City of Carlsbad
Status Report #3

Pursuant to the Committee Scheduling Order dated December 26, 2008, the City of Carlsbad submits its City Status Report #3 for the Committee's consideration. This status report highlights the work to date on the proposed Carlsbad Energy Center Project (CECP), which is proposed by NRG, and the ongoing concerns and objections the City has with the proposed power plant.

City Comments on Preliminary Staff Assessment (PSA)

The City of Carlsbad is today submitting extensive comments on the Staff PSA. One reason for the extensive nature of these comments is that the Carlsbad Energy Center Project continues to be substantially undefined. Although Staff has worked diligently to identify and evaluate the proposed CECP and its impacts in a timely manner, this lack of project specificity has, and continues to, create considerable uncertainty

Two examples of this lack of project clarity illustrate the difficulty that both Staff and the Intervenors have had in analyzing this project:

1. Highway I-5 Widening. In early January 2009, the CECP was directed by CEC Staff to submit project information incorporating Caltrans' planned widening of Interstate 5 project. CECP's incorporation of a widened I-5 will undoubtedly affect areas such as Worker Safety and Visual Impacts and could affect several other resource areas including Air Quality and Noise (depending on mitigation), and
2. Air Quality. Recent Staff Data Requests reflect continued questions surrounding Air Quality. How these concerns are resolved and the impacts it will create, remains unclear.

The City believes that the CECP will continue to morph as the above issues and others are addressed in the coming months. Based on the projected revisions to the project and its related impacts, it would appear reasonable for the Committee to require a Revised PSA. The Revised PSA would afford both the Staff and the public an opportunity to evaluate and comment on a project that is clear in scope and impacts.

Citizen Involvement

The citizens of Carlsbad have been, and continue to be, extremely interested in this proceeding. Approximately 300 citizens attended the PSA workshop on January 7th & 8th, and

many spoke of issues of interest to the community. This intense public involvement is one of the primary reasons the City believes that Staff needs to issue a Revised PSA.

Land Use Clarification

On January 27, 2009, the City of Carlsbad City Council and Housing and Redevelopment Commission passed joint Resolution 2009-020. This Resolution, which was based on long-standing City of Carlsbad land use policies and regulations, made the determination that the proposed CECP is inconsistent with all applicable land use laws, ordinances, regulations, and standards.

Non-Participation by the California Coastal Commission

It remains the City's position that provisions of the Warren-Alquist Act require the participation of the Coastal Commission. Intervenor, CURE, in support of the City's motion for a revised PSA, has put this issue squarely before the Committee. We believe that the Energy Commission's staff is not authorized to occupy the position of the Coastal Commission, even if it is meticulously correct. We feel that the process would best be served if this participation was earlier in the process and certainly prior to the revised PSA or any further proceedings.

Schedule

The City respectfully suggests the Assigned Committee consider a schedule conference when the project becomes sufficiently defined to predict the time frame for future deliverables.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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APPLICATION FOR CERTIFICATION
FOR THE **CARLSBAD ENERGY
CENTER PROJECT**

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 1/12/2009)

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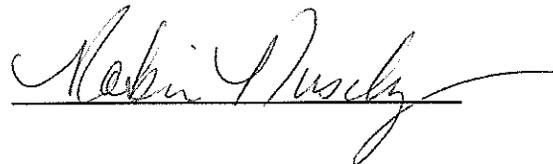
DECLARATION OF SERVICE

I, Robin Muschy, declare that on 1.30.09 I deposited copies of the attached document in the United States mail at Carlsbad 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.



Attachment