

Power of Vision

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Monday, October 11, 2010

Commissioner James Boyd
Commissioner Anthony Eggert
Hearing Officer Paul Kramer
California Energy Commission
1516 9th Street
Sacramento CA 95814

Re: Docket No. 07-AFC-6

Dear Commissioners Boyd & Eggert and Hearing Officer Kramer:

Power of Vision respectfully submits their Reply Brief in matter of the Carlsbad Energy Center Project.

Sincerely,

Arnold Roe, PhD
Julie Baker

CC: Proof of Service list

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INTERVENER POWER OF VISION

REPLY BRIEF

October 11, 2010

Power of Vision, in our Reply Brief, will not burden the Commissioners with yet another repetition of what has already been said or written before. Rather, as lay people not well versed in the quasi-legal procedures governing the review of an AFC by the CEC, we prefer to look back at the pending application from a common sense point of view.

Whatever merits the applicant's plan for the CECP may have had when it was first conceived in the mid-2000, **time and events have overtaken the original concept.**

1. The California Solar Initiative has shifted emphasis away from the construction of fossil fuel burning power plants to alternative energy sources, such as wind and solar. Power distributors, such as SDG&E, are frantically searching for sources of alternative energy in order to meet the requirements of the Initiative, and have accordingly reduced their immediate need for large mid-range power plants as proposed by the applicant. . A statement by SDG&E President Michael Niggli in a *San Diego Union Tribune* article dated May 23, 2010, "About half of the power San Diego County uses is made locally, Niggli said, with the rest coming in over power lines from the north and east. Still, his company doesn't anticipate the need for another major plant. He said the need will be in the form of "peakers" — much-smaller plants that can help when power is most needed." Accordingly, SDG&E has not given CECP a contract, but instead has entered into negotiations with Pio Pico Power who plans to build a new power station in Chula Vista. (Reference Pio Pico Energy Center LLC AFC dated June 30, 2010.)

2. The CECP chose to retain their original plan to install two Siemens power trains, presumably because they were purported to have BOTH quick start up capabilities AND high efficiency. However, the touted high efficiency turned out to be erroneous and the quick start up capability has never been demonstrated elsewhere. More efficient power trains with comparable quick start up capabilities are now available, but the applicant refuses to consider alternative units.

3. As early as Fall, 2007 a member of Power of Vision suggested to the applicant alternative layouts for the CECP (in-line instead of side by side power trains) in order to lessen the visual and access impacts, but these ideas were rejected presumably because the applicant wanted to reserve land for a third power train. The plan to widen the I-5 freeway worsened the layout situation, yet the applicant refuses to modify their layout plans.

4. The applicant chose not to respond to the City of Carlsbad's offer to supply reclaimed water for the CECP if the applicant would bear the cost of building the treatment facilities (Evidentiary Hearing Testimony Joe Garuba) for the reclaimed water and has opted instead to build a desalination plant. This choice was made before the strong California initiative to reduce and/or eliminate all use of ocean water that destroys marine fauna, **STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-0020** was published. This makes questionable the viability of a desalination plant for industrial use as proposed by the applicant. Yet the applicant has refused to resolve the permitting process with the San Diego County Regional Water Board prior to construction of the desalination unit.

5. When CEC Staff prepared the PSA, they may have been justified in downplaying the “No Project Alternative”. However, before publication of the FSA, Staff should have been privy to preliminary reports of the CEC’s 2010 Peak Demand Forecast for the San Diego area which indicated a downturn in peak power demand, and no immediate need for additional installed generating capacity. Events indicate that a more careful analysis should have been done for the “No Project Alternative”.

The above observation leads us to reaffirm our earlier belief that the CECP is **the wrong technology, in the wrong place, at the wrong time.**

There are four issues that do bear further clarification:

1. What is the project and what rules apply? It is unclear to Power of Vision as to whether CECP is a new facility or an expansion. It also appears to be unclear to the applicant and CEC staff. This is an important issue for the commission because of the implications for parasitic water from EPS, cumulative view impacts, I-5 widening, coastal act requirements and fire safety. Below is a sample of noted discrepancies in the Applicant and Staff briefs.

- "modernization and replacement of a portion of the existing EPS electrical generation facilities" (applicant brief, page 10)
- "new, efficient, combined-cycle power plant" (applicant, page 42)
- "an expansion [of Encina]" (Staff, page 9)
- "replacement" (staff, page 27)
- "new, much more efficient power plant" (staff, page 32)
- "modern replacement" (staff, page 33)
- "a replacement or expansion" (Staff, page 40)
- and finally, "a new facility that would be built in an existing power plant complex". (Staff, page 50).

2. The City of Carlsbad and its residents deserve due deference in this project. Staff and applicant continue to assert the ill effects of the project can be mitigated to levels of acceptability. But one must ask “by whom”? As indicated by the high turnout at the public comments sessions during the Evidentiary Hearings, locals as well as experts do not believe this project can be mitigated in terms of view, air quality, noise and biological effects. City residents believe the cumulative effects of two smoke stacks, HRSGs and related equipment that will be visible cannot be mitigated. Staff acknowledges in their Opening brief (pg 36) “visual sensitivity at some KOP’s is high”. In such matters, sensibilities of residents must be considered.

3. CEC staff and applicant continue to assert that CECP meets the General Plan and zone designations for the site. Again, deference MUST be given to the City whose job it is to implement these regulations. Staff may claim that the requirement in the zone code for a precise development plan is unnecessary because in their view the requirement is “highly unusual” does not negate that it IS a requirement of the zone code. Staff also overlooks the many provisions in the General Plan that speaks to development in the City and the requirements industrial development. If it were so difficult to development in Carlsbad, as staff suggests, then nothing would ever be built which is clearly not the case.

4. CECP is a merchant utility with no contract with the local transmitter SDGE to serve

power to the region. Opening briefs by the applicant and staff contend that Poseidon was allowed and it is not a “public” utility but similar to CECP. However, this overlooks the fact that water contracts for the output of Poseidon have been signed by local water agencies that are governing, legislative boards. Additionally the water supplied with directly benefit the residents of Carlsbad and surrounding communities.

Again, as lay people, we do not understand why CEC should approve one more power plant that probably will never be built. Is there some economic value to the applicant to have a permit for a plant that, in all likelihood, will not built? Does CEC condone approval of applications in such circumstances? Should CEC staff be an advocate for a project or the unbiased researchers of the appropriateness of the application?

Power of Vision believes the No Project alternative is the superior answer to this application. There is no compelling reason to locate a large mid-range power plant on the coast when it will NOT benefit the San Diego load pocket. Testimony by CALISO and CEC staff during the Evidentiary Hearings admitted a plant does not need to be on the Carlsbad coastline. This plant does NOT have a contract with San Diego Gas & Electric. This plant WILL continue to draw ocean-water for production contrary to new State of California regulations.

The CEC’s charter requires the CEC to consider the inputs from the community in which the proposed power plant will be sited. We trust that we have amply indicated that the citizens and elected officials of our community are strongly opposed to the CECP and we urge the Commission to reject this application.

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Power of Vision supports Terramar’s request to admit additional information on the Kleen Energy accident in Connecticut. Such information is relevant as it speaks to the applicant’s contention that local fire services are redundant and that power plants are safe to be located adjacent to residents. We also request that the applicant produce their easement agreement with the North County Transit District (exhibit 198) for access to the project site over the railroad tracks as was agreed to at the Evidentiary Hearings (page 117 & 189-190) Thursday, February 4, 2010).

Submitted by: _____
Arnold Roe, PhD
Julie Baker

DECLARATION OF SERVICE

I, Julie Baker, declare that on October 11, 2010, I served and filed copies of the attached Power of Vision Reply Brief. 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: [\[http://www.energy.ca.gov/sitingcases/carlsbad/index.html\]](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:

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

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

CALIFORNIA ENERGY COMMISSION

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I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Julie Baker



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**APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT**

**Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 6/14/2010)**

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