

STATE OF CALIFORNIA
Energy Resources Conversation
And Development Commission

DOCKET	
07-AFC-6	
DATE	Dec. 05 2011
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In the Matter of:

The Application for Certification for the
CARLSBAD ENERGY CENTER PROJECT

Docket No. 07-AFC-6

**POWER OF VISION'S
RESPONSIVE TESTIMONY TO APPLICANT'S & CEC STAFF'S TESTIMONY**

December 5, 2011

Julie Baker
Arnold Roe, PhD
4213 Sunnyhill Drive
Carlsbad, CA 92008
760.729.4068
julbaker@pacbell.net
roe@ucla.edu

PREFACE

We decry the abusive and offensive language that both the attorney for the Applicant and the attorney for the CEC Staff have resorted to in their recent communications. We are sorry to see that, lacking strong arguments to support their claims, the attorneys have now resorted to unprofessional name calling. It demeans the level of these proceedings and warrants a strong rebuff from the Commissioners.

TESTIMONY

We respond to the Applicant and Staff's testimony of November 18, 2011 in the same order chosen by the Applicant, namely:

- I. The Impact of the three new [Power Purchase Agreement] projects on cumulative impacts and alternatives analysis;
- II. Modifications to LANDS-2 & LANDS-3;
- III. Grid Reliability;
- IV. EPA's requirement for a Prevention of Significant Deterioration permit;
- V. LORS;
- VI. Overrides

I. THE IMPACT OF THE THREE NEW [POWER PURCHASE AGREEMENT] PROJECTS ON IMPACTS AND ALTERNATIVES ANALYSIS

I-A RESPONSE TO APPLICANT'S TESTIMONY

Applicant claims that the approval of San Diego Gas & Electric Company's Power Purchase Agreements (PPA) to provide 530 MW of new capacity to the San Diego region is "speculative" and they present no new testimony on this issue other than to defer to Energy Commission Staff's Supplemental Testimony filed on August 12, 2011. However, using

Staff's own analysis method in regards to "likelihood" of PSD approval of the project (see Energy Commission Staff Response to Committee Order dated November 18, 2011), based on prior actions by the CPUC in response to SDG&E's PPAs, it is highly likely that the current PPA will be approved.

What the Applicant fails to mention is that SDG&E chose not to give the CECP a PPA, but instead chose to go with three smaller, distributed sources of power. While the reasons for doing so are confidential at this moment, technical and economic reasons for doing so can be inferred:

1. Grid reliability does not necessitate additional power sources at this node;
2. Providing new power sources at distributed locations in the regional grid provides greater reliability than concentrating that power at one location;
3. Having a large number of smaller units, rather than two very large units, increases the grid reliability in case a unit is out of service.
4. Skid mounted smaller units, as proposed in the PPAs, lead to lower initial project costs than CECP and therefore potential lower consumer costs for electrical energy;
5. While large combined cycle units such as those of the CECP have higher efficiencies at full power, they may operate at such full power less frequently than a multitude of smaller units, all of which operate at full power during most of their output. The result may be that the total energy consumption for the PPA could be less than for the CECP, again lowering emissions and consumer costs for electrical energy;
6. The Siemens combined cycle system, first marketed in the mid 2000s and proposed for the CECP, has not been installed any place in the world, and are an untested system;
7. In the years since the Applicant proposed the Siemens system, newer, more efficient, American manufactured systems have become available and are being installed in this country.

Another factor that the Applicant fails to mention in this section, though they do raise the issue in the section on LANDS, is the economic viability of a project, which does not have a PPA. The CECP failed to obtain a PPA from SDG&E in the last round of Request for Offers

(RFOs), and as time goes by, for many of the reasons listed above, it will become more and more difficult for CECP to receive a PPA in a future (2017-2018?) RFO.

I-B RESPONSE TO STAFF'S TESTIMONY

Staff offers no new testimony on this issue.

I-C CONCLUSIONS

SDG&E's current request for approval of their PPA before the CPUC is highly significant and should be taken into account in these proceedings because:

- a. The power distributor for the region, SDG&E, has chosen to provide PPAs to sources of new power other than CECP to meet the region's foreseeable energy needs, thus making the "No Project" alternative for the CECP a viable alternative;
- b. According to the Applicant's own testimony (see LANDS-2 & LANDS-3), without a PPA it is unlikely that CECP will be able to obtain the needed financing, i.e., the project becomes economically unviable.

II. MODIFICATIONS TO LANDS-2 & LANDS-3

II-A RESPONSE TO APPLICANT'S TESTIMONY

The Applicant's recent request to change conditions LAND-2 & LAND-3 is one of the most bizarre events that has occurred in the more than four years that these proceedings have been going on. One need only look to the record to find numerous contradictions raised by this request.

At the May 19, 2011 Presiding Member's Preliminary Decision (PMPD) hearing in Carlsbad, Commissioner Boyd made a heroic effort to get the Applicant and the City of Carlsbad to agree on some conditions that would allow the proposed CECP to meet South Carlsbad Coastal Redevelopment Area (SCCRA) requirement for extraordinary public purpose, and thereby obviate the necessity for the Commission to declare an override on this issue.

Commissioner Boyd stated, “So where is the extraordinary benefit coming from shutting down a plant that has no RMR status or black start status on it except for one 14 megawatt combustion turbine? This plant’s also going to lose its water discharge permit in 2017. Once these events occur, and as we know the old plant is located in a redevelopment area, it would be considered blight and would have to be demolished anyway. So offering the removal of the old plant as extraordinary benefit ignores the requirements of redevelopment.” (see pages 201 & 202 of the transcript of the May 19, 2011 hearing).

Commissioner Boyd goes on to say, “But a nudge from this commission, or at least this committee to try to facilitate something positive.....I think there will be a very valiant and well-meaning effort on the part of the parties to try to deal with that, to try to get a benefit out of the fact that, yeah, there really isn’t much reason for (EPS units) 4 and 5 and longer, and maybe we can get a positive thing. To imply that anything we said means they’re going to end up being, you know, rusting hulks sitting there in perpetuity puzzles me. (see page 244 of the transcript of the May 19, 2011 hearing).

At the opening of the hearing on May 20, 2011 Hearing Officer Kramer stated, “What we would like to see if the removal of that, you know, big, I don’t think eyesore is too - - too unfair a characterization, occur sooner rather than later.” (see page 4 of the transcript of the May 20, 2011 hearing). To which MR. McKinsey responded in part by saying, “And then secondly, ways to increase either pressure or to insure that - - that the project owner doesn’t have the ability to - - change their mind and say, well, now we want to seek further operations, that, you know, it’s a true good faith obligatory commitment. And we see the inclusion of a condition in the - - in this decision the - - one way to give the city that type of certainty that now the Energy Commission has the ability to - - to - - to enforce that and to say, you know, you made this commitment and you’re not following it.” (see pages 6 & 7 of the transcript of the May 20, 2011 hearing).

Commissioner Boyd went on to comment on Mr. McKinsey's testimony by stating, "I really do appreciate the - - the words you have spoken today and therefore representing the - - the sentiments and thoughts of NRG on this subject. They're very positive. And I do hope a resolution regarding this can be reached sooner rather than later and continue the - - the, what I see and understand as good-faith effort, to address what the public down here feels so strongly about." (see page 9 of the transcript of the May 19, 2011 hearing).

It thus appears that, at least in May of 2011, the Applicant recognized the need for binding conditions to insure that they removed the five units, the building, and the smokestack in a timely fashion. They then agreed with the City of Carlsbad to the inclusion of conditions LAND-2 & LAND-3, which clearly spell out NRG's financial responsibility "...for the demolition, removal, and remediation of the Encina Power Station (Units 1 through 5), associated structures, the black start unit and the exhaust stack." LAND-2 goes on to say, "Project owner shall demonstrate to the CPM's satisfaction, fiscal capability to implement the (Demolition, Removal, and Remediation Plan) DRRP prior to the commencement of demolition activities. Such demonstration could be accomplished by submittal of a financial plan, deposit of funds into a dedicated account, or any combination thereof."

Neither POV, CEC Staff, nor other Intervenors were parties to the agreement between City and NRG that led to the Applicant formulating the wording of LANDS-2 & LANDS-3. Nor were we made aware of any agreement by the City not to pursue their opposition to the CECP application. For certain, we have not seen any such agreement in writing in any of this proceeding's documents, or anywhere else, and we are highly skeptical that the City ever made such a commitment to the Applicant. What is clear is that the Applicant was fully aware of the fiscal implications of LANDS-2 & LANDS-3 when they proposed them.

However, on September 13, 2011, in a complete and surprising turnaround, NRG requested to be relieved of the conditions LAND-2 & LAND-3. The reason given by Mr. McKinsey was, "...we really think we have to back up and go back to where the project was before Land 2 and 3 were imposed on it.

"And the reason for that is simply that the project, when NRG agreed to Land 2 and 3, the idea was that it is a significant cost burden to demolish and remove the existing building at some point. But it was supposed to have been done in the concept of a cooperative redevelopment process with the City. And so the idea was that that cost could be put into a pro forma related to the redevelopment of that property west of the railroad tracks.

"But as June and July unfolded it became increasingly clear that Land 2 and 3 had not stopped the City's opposition and aggressive tactics....

"And we realized that all we had done was taken and imposed tens of millions if not a hundred million dollars of costs onto the project. And the only way to go forward would be to put them on the pro forma for this project. Which would mean those costs would have to be applied to the rates that the project would generate, either burdening the ratepayers, or more likely, making the project economically unviable and incapable of getting a long-term power procurement (contract)." (see pages 7 & 8 of the transcript of the September 13th 2011 hearing in Sacramento).

Mr. McKinsey's statements on September 13th contradict his statements at the May 20th hearing in Carlsbad. Hearing Officer Kramer, "And let me ask a precautionary question, is financing really an issue for this, the removal efforts, or is - - is - - are the costs within the range of what, for instance, NRG can handle?" To which Mr. McKinsey responded, "The - - the removal - - and demolition of the existing facility is not the type of expense comparable to say construction of a new facility. So it's not the cost, per se, but it is the spending decision that - - that both NRG, as well as the city, has a responsibility to its constituents

when it spends money. And so NRG has to be able to say to its shareholders, you know, we're investing the expenses for the following reasons. And so that's really the decision.

“But in terms of having to satisfy lenders to complete a demolition that wouldn't probably be the case.” (see pages 14 & 15 of the transcript of the May 20, 2011 hearing).

What is strange about the Applicant's reasons for their request for changes to LANDS-2 & LANDS-3 is how potential lenders would have agreed to fund the addition of a hundred million dollars of DRRP costs onto the project if, and only if, the City ceased their opposition to the application!

The Applicant claims that the financial requirements of LANDS-2 & LANDS-3 will make the project financially unviable. The Applicant has thus, for the first time, introduced into these proceedings the question of financial viability, a topic that we had been told was not open for purview by the CEC. Since this topic is now under the purview of the CEC, we must point out that the Applicant has not presented any evidence that the CECP is financially viable WITHOUT the DRRP costs. They have not supported their claim that the incremental cost of DRPP will make the project financially unviable by providing the financial data of the project without DRRP and with DRRP costs and benefits. We suspect that they have not provided such data because they would have difficulty demonstrating CECP's financial viability without DRRP costs. We base our suspicions on the fact that CECP was unsuccessful in obtaining a PPA from SDG&E, probably because it was not cost effective even without the DRRP costs, which were then not part of CECP's tender in response to SDG&E's RFO.

Also, the Applicant uses the estimated \$63 million cost for the proposed demolition of the South Bay Power Plant (SBPP) as a starting point to extrapolate DRRP costs to \$100 million for CECP. What the Applicant failed to mention is that SBPP demolition costs include removal of boilers and turbo-generators that are much larger than those of EPS, and

removal of tank farms, switchyard, intake/discharge structures, a desalination plant, and a jet fuel facility...none of which are specifically called for in the DRRP. The Applicant has failed to prove actual and factual data on the specific costs related to DRPP. It could well be that DRPP costs could be less than those of SBPP. Until the Applicant documents the magnitude of DRRP costs, all arguments based on these costs are speculative and should not be the basis for modifying the conditions of LANDS-2 & LANDS-3.

Another strange claim that the Applicant makes is that CECP and ESP are two totally independent entities, ignoring the fact that both are owned by NRG and that the ultimate financial burden or benefit from both ESP and CECP will be borne by NRG. Also, the two entities are interlinked because CECP will be controlled from ESP, that water for the CECP desalination plant will come from ESP, and that CECP affects the concurrent shutdown of ESP Units 1-3.

Lastly, we strongly object to the Applicant attempting, at this late date, to alter previously accepted conditions. It sets a bad precedent and may be a harbinger of other change requests to come. Reneging on the conditions of LANDS-2 & LANDS-3 is sure to infuriate POV's constituency, the more than 2300 citizens of the coastal zone in and around Carlsbad. It will also require the Commission to reconsider issuing an override regarding the extraordinary public purpose to the local community required by the SCCRA.

II-B RESPONSE TO STAFF'S TESTIMONY

Staff offers no new testimony on this issue.

II-C CONCLUSIONS

Applicant has requested changes to LANDS-2 & LANDS-3

1. At a very late date;
2. Has raised the issue of financial viability but has not provided supporting evidence to show that CECP would be viable without DRRP costs, and would be unviable with DRRP costs;

3. Has not shown evidence that City agreed to cease opposition to the application;
4. Has not demonstrated how City's cessation of opposition would make the project viable with DRRP costs included;
5. Has not provided accurate data supported the magnitude of DRRP costs, and
6. Has contradicted their earlier testimony citing the need for strong conditions to insure removal of ESP and how the costs for such removal will not affect their ability to obtain financing.

We therefore urge the Commission to deny Applicant's request for modifications to LANDS-2 & LANDS-3.

III. GRID RELIABILITY

III-A RESPONSE TO APPLICANT'S TESTIMONY

Applicant misquotes CAISO representative Dennis Peters' statement on page 68 of the June 30, 2011 Commission Business Meeting. The actual transcript of lines 12-24 state, "Yes, just briefly, I guess. I had mentioned in my comments that the errata was consistent with the 2013 to 2015 Local Capacity Technical Analysis. One thing that isn't always apparent in these analyses, we have ten different local capacity areas, San Diego is one of those. But each of those local capacity areas also had within it sub areas with certain contingencies that can only be met with resources in those particular areas. And where the project is being proposed is in one of those sub areas. So you have to look a little bit closer than the entire San Diego local capacity technical area – local capacity area, I should say."

Mr. Peters did not reference a specific study conducted by CAISO to show that in the geographic sub area for which CECP would be sited there exists a need for grid stabilizing additional power sources. Nor is Mr. Peters statement consistent with earlier testimony given by CAISO representative Mr. McIntosh that grid stabilizing additional power sources could be located at other sites than those proposed by CECP. Nor does it take into account SDG&E's testimony before the CPUC that the three new PPA sites they are seeking approval

for will meet all of the foreseeable grid stability needs of the region (and sub areas) until at least 2018.

The Applicant quoted testimony from CAISO at the June 30, 2011 meeting, but failed to quote countering arguments put forth at that meeting by Mr. Robert Sarvey, to wit, “One of the things Cal ISO just got up and made some statements about this project and there is also some information in the Errata that somehow this project is needed for reliability. And you base that on the 2012, 2015 Local Capacity Analysis by Cal ISO. But the 2012 Local Capacity Analysis has superseded that. And the 2012 Local Capacity Technical Analysis says overall the load forecast went down by 182 megawatts (in) 2011. Total resource capacity needed for LCR decreased by 297 megawatts. And then it also says the addition of Sunrise Power Link is the reason for the further decrease in LCR.

“But more importantly, Cal ISO has just provided testimony to the PUC about this 2012 LCR and this is what they said: Individually Sunrise will increase San Diego Gas and Electric’s import capability into its service area from 2950 megawatts to 4000 megawatts, thus enabling SDG&E to meet its resource sufficiency and its reliability needs.” (see pages 66-67 of the transcript of the June 30, 2011 Business Meeting in Sacramento)

We should note that the projects in the 2012 Local Capacity Technical Analysis were predicated on there being a mild recovery from the recent depression. More recent indicators point to a smaller recovery or possibly a return to recession, which could further reduce future load forecasts.

Also, CAISO is not an unbiased protagonist in such issues as are currently before the Commission. Their job is made easier when there are redundant power sources, especially since the cost of such redundancy is not borne by them. Also, their statement of need is often in conflict with those of the local power distributor, as is the case in regards to the San Diego region.

The Applicant and their witness, Brian Theaker, indicate that siting the CECP on the EPS property will enhance grid reliability. They make no mention of the fact that the CEC has repeatedly indicated in their annual reports that more important than additional power sources in the San Diego region is the construction of additional North-South tie line capacity.

III-B RESPONSE TO STAFF'S TESTIMONY

Staff offers no new testimony on this issue.

III-C CONCLUSIONS

Grid reliability can be met by SDG&E's proposed PPAs without the additional need for CECP.

IV. EPA'S REQUIREMENT FOR A PREVENTION DETERIORATION (PSD) PERMIT

Applicant has not yet submitted a PSD application, as required by EPA in their letter to NRG dated July 18, 2011, and according to Applicant's Supplemental Testimony of November 18, 2011 (see page 17) it could take from 27 to 34 months for the issuance of a Final PSD Permit. As indicated in ENERGY COMMISSION STAFF RESPONSE TO COMMITTEE ORDER dated November 18, 2011 (see page 1), "The PSD permit is a "preconstruction permit," in that a project may not be constructed until the permit is obtained and becomes final. (40 C.F.R ¶ 52.21(b)(43){2011}]"

Since the beginning of construction for CECP is not imminent, the Commission can await the finalization of additional pertinent information (such as PCUC's action on SDG&E's PPA and California Coastal Commission's action on some of the City of Carlsbad's recent zoning changes) before the Full Commission approves the Application For Certification of CECP.

In regards to whether or not it is certain that EPA will issue a PSD Permit for CECP:

1. EPA guidelines are in a state of flux. What may have been approved yesterday is no guarantee for what will be approved tomorrow;
2. As pointed out on page 28 of the Fact Sheet for the Palmdale Hybrid Power Project (Applicant's Exhibit D), EPA considers carbon capture and sequestration (CCS) feasible for gas turbines and as part of the PSD process EPA examines its applicability in each new permit application. In the case of Palmdale, EPA determined that transport of the captured CO₂ to potential sequestration sites is not feasible. It could determine otherwise for CECP, which is located adjacent to the coast and deep ocean canyons where deep-sea sequestration may be feasible.

V. APPLICABILITY OF CITY OF CARLSBAD'S RECENT LAND USE AMENDMENTS

V-A. RESPONSE TO STAFF'S TESTIMONY

While Power of Vision recognizes the exclusive jurisdiction granted the Energy Commission regarding the siting, design and permitting of electric generating facilities (Pub Resources Code §§ 25000 *et seq.*), the act also gives credence, status and standing to the Local Ordinances, Rules and Standards (LORS) of the community. "The Legislature further finds and declares that in planning for future electrical generating and related transmission facilities state, regional, and local plans for land use, urban expansion, transportation systems, environmental protection, and economic development should be considered." (Pub Resources Code § 25003)

Recent City of Carlsbad land uses updates reflect the will and desire of residents to render the CECP inconsistent with General Plan, Zoning Ordinance and related documents. Intervenors City of Carlsbad, Power of Vision and Terramar have consistently maintained that CECP does not meet LORS. It was CEC staff that determined Carlsbad planning documents were difficult to understand, so difficult in fact, they choose to ignore the documents rather than issue an override. Staff again, reiterate this position in their *Energy Commission Staff Response to Committee Order* of November 18, 2011 calling the "most recent package of changes a muddle". According to City of Carlsbad Attorney Ron Ball, the latest changes are an attempt to make the amendments and clarifications to the General Plan, Zoning Ordinance and related

documents more understandable to those unfamiliar with them (City of Carlsbad October 17, 2011 Request for Official Notice).

Staff also glossed over the fact that the General Plan update (GPA 11-06) and Specific Plan 144 (CS-160) are currently in force having been adopted by the City Council on September 27, 2011 and render the CECP inconsistent with LORS. Neither of these requires Coastal Commission approval. The City has been very clear about its objection to siting CECP on the coast and is using its local land use authority to protect the community and reflect the intent of the citizens. The recent changes don't prevent the CEC from approving CECP; merely create the necessity of issuing a LORS override. As was made clear to the Council and the Commission (City of Carlsbad October 17, 2011 Request for Official Notice), the land use changes are meant to clarify City planning documents. Citizens of Carlsbad, through their City Council, rely on these rules for protection in our community. POV, representing over 2300 North County residents in opposition, implore the CEC to recognize that electrical generation facilities do not belong on the California coast.

Staff ultimately recognizes that CECP is inconsistent with SP 144 "Moreover, the existing Specific Plan 144 can reasonably be considered a standard of general application, and thus an applicable LORS, and General Plan Amendment 11-06 "restricts 'public utilities' use to areas outside the coastal zone. This revision would make CECP inconsistent with provision in the City's general plan." (Energy Commission Staff Response to Committee Order, November 18, 2011. Pgs 6 & 7)

V-B. RESPONSE TO APPLICANT'S TESTIMONY

The applicant states in their Supplemental Testimony, the "recent land use amendments do not meet the requirements of California's zoning laws, nor were they adopted in accordance with the provision of the California Environmental Quality Act" yet offer no proof, clarification, or evidence beyond this statement.

V-C. CONCLUSION

Neither Staff nor Applicant has shown the recent City land use changes to be inappropriate or illegal. The recent land use changes enacted by the City are prudent and necessary protections for the community to prevent power generating facilities to be located in the coastal zone. These regulations are clearly an indication of the intent of the community to render CECP an incompatible use. The CEC is therefore, obligated to issue an override as the project is in violation of LORS.

VI. OVERRIDE IS APPROPRIATE

VI-A. RESPONSE TO APPLICANT'S TESTIMONY

Power of Vision has maintained from the beginning of these proceedings that CECP is NOT consistent with LORS. Extensive testimony has already been presented to the Committee on this topic and we will not repeat ourselves here. If the two conditions that were requested by Commissioner Boyd at the May PMPD hearing, as mentioned earlier in this document are removed, it is impossible for CECP to meet the extraordinary public benefit requirement of the South Carlsbad Coast Redevelopment Area.

The applicant opines several justifications to make findings for an override. POV's contends the benefits the applicant describes are illusory at best.

1. CECP could not possibly be operating by 2013. Especially since it could take, as the applicant admits in their most recent filing, from 27 to 34 months to secure a PSD permit, and then another 24 months for construction;
2. CECP will NOT achieve the goals the SCCRA as previously mentioned in this document and testified to earlier by Intervenors City of Carlsbad, POV and Terramar as they cannot meet the "extraordinary public benefit" requirement;
3. CECP cannot meet the need for new energy supplies needed in San Diego by 2012. Future needs are most likely to be met by the PPAs that San Diego Gas and Electric executed with three different power suppliers.

4. Cannot possibly meet “State policy that places the highest priority in new power projects that: (i) retire aging seawater cooled power plants” as CECP will use 5 MGD of seawater for power production;
5. Applicant claims CECP will use 30% less fuel and result in 30% better GHG performance. According to the Supplemental Testimony, (Table 1, page 13) the new plant will put out more GHGs than that of the minimally used Encina Units 1-3;
6. Considering that Encina Units 1-3 operate rarely, the claim of saving 225 million gallons per day of seawater is false. CECP desalination operation, over its operating life, will use more ocean water than units 1-3 will use in their foreseeable future;
7. CECP is NOT consistent with the City’s goal to phase-out existing power plant for community and commercial redevelopment as NO plan is in place to remediate the EPS site. In fact, the applicant is asking to be relieved of this previously-agreed-to condition.
8. The economic and development benefits listed by the applicant in their Supplemental Testimony (page 24) have not been substantiated.
9. Before the advent of air-cooled power plant technology, the Coastal Act did contemplate the continued use of existing facilities in the coastal zone. CECP is not coastal dependent and therefore could be located elsewhere. Since there is no contract with the SDGE, the local service provider, CECP does NOT represent an effort to improve the region’s electrical energy production.

VI-B. RESPONSE TO STAFF’S TESTIMONY

Staff offered no testimony

VI-C. CONCLUSION

To issue an Override, the Committee must make findings that the CECP is required for public convenience and necessity and has significant benefits (Pub Resource Code §25525). The applicant and Staff have not been able to make a case for this project to justify the issuance of override findings. As has been previously documented in the February 2010 Evidentiary Hearings, subsequent hearings, briefs, responses and numerous documents these are the areas in which POV argues Overrides must be made:

1. CECP is not consistent with Carlsbad LORS as it violates:
 - a. Carlsbad General Plan,
 - b. Specific Plan 144
 - c. Agua Hedionda Land Use Plan
 - d. Zoning Ordinance

- e. Local Coastal Program Amendment
 - f. Site Development Plan
2. CECP does not provide extraordinary public benefit to the citizens of Carlsbad as required by the South Carlsbad Coastal Redevelopment Plan
 3. Violates the Coastal Act
 4. Local Fire department jurisdiction issues are still outstanding
 5. Cumulative impacts from the foreseeable widening of I-5

The issue of a PPA with SDGE is of immense importance when considering whether findings can be made to justify the licensing of CECP. While the Committee is under no obligation to consider the economic viability of an application, the lack of a PPA speaks directly to the needs of the San Diego region for CECP. Hence the inability of CECP to meet the “public convenience and necessity and has significant benefits “ requirement of the Public Resources Code. As was discussed earlier in this response, three other PPAs for the San Diego region are currently before the CPUC.

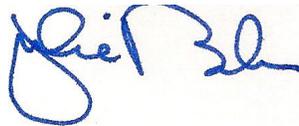
CLOSING STATEMENT

On behalf of the residents of Carlsbad and Coastal North County, we ask the Committee to deny the license for Carlsbad Energy Center Project. There is no viable, compelling reason to locate this project in this location. Carlsbad has been host to electrical generation for over 60 years; it is time to reclaim the coastline for the benefit of the residents of Carlsbad and the region. Our community has suffered the impacts of a power plant for long enough.

POV TIME REQUIREMENTS FOR THE DECEMBER 12 EVIDENTIARY HEARING

<u>Topic</u>	<u>Witness</u>	<u>Time Estimate for Cross</u>
PPA Impacts	None	20 minutes
LAND 2 & 3	None	20 minutes
Grid Reliability	None	20 minutes
Air Quality-PSD	None	10 minutes
CITY LORS	None	20 minutes
Overrides	None	15 minutes

Respectfully Submitted,



Julie Baker
Arnold Roe, PhD
Power of Vision



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 10/24/2011)

APPLICANT

Jennifer Hein
George Piantka, PE.
NRG Energy, Inc., West Region
5790 Fleet Street, Ste. 200
Carlsbad, CA 92008
jennifer.hein@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
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
jamckinsey@stoel.com

INTERESTED AGENCIES

California ISO
e-mail service preferred
e-recipient@caiso.com

INTERVENORS

Terramar Association
Kerry Siekmann & Catherine Miller
5239 El Arbol
Carlsbad, CA 92008
e-mail service preferred
siekmann1@att.net

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Allan J. Thompson
21 "C" Orinda Way #314
Orinda, CA 94563
e-mail service preferred
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 service preferred
Joe.Garuba@carlsbadca.gov
e-mail service preferred
ron.ball@carlsbadca.gov

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

Center for Biological Diversity
c/o William B. Rostov
EARTH JUSTICE
426 17th Street, 5th Floor
Oakland, CA 94612
e-mail service preferred
wrostov@earthjustice.org

Power of Vision

Julie Baker & Arnold Roe, Ph.D.
4213 Sunnyhill Drive
Carlsbad, California 92013
e-mail service preferred
julbaker@pacbell.net
*roe@ucla.edu

Rob Simpson
Environmental Consultant
27126 Grandview Avenue
Hayward, CA 94542
e-mail service preferred
rob@redwoodrob.com

April Rose Sommer
Attorney for Rob Simpson
P.O. Box 6937
Moraga, CA 94570
e-mail service preferred
aprilsommerlaw@yahoo.com

**ENERGY COMMISSION –
DECISIONMAKERS**

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

KAREN DOUGLAS
Commissioner and Associate Member
kidougla@energy.state.ca.us

Galen Lemei
Adviser to Commissioner Douglas
e-mail service preferred
glemei@energy.state.ca.us

Tim Olson
Adviser to Vice Chair Boyd
tolson@energy.state.ca.us

*indicates change

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

ENERGY COMMISSION STAFF

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

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

**ENERGY COMMISSION – PUBLIC
ADVISER**

Jennifer Jennings
Public Adviser's Office
e-mail service preferred
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, Julie Baker, declare that on December 5, 2011, I served and filed copies of the attached Power of Vision's **RESPONSIVE TESTIMONY TO APPLICANT'S & CEC STAFF'S TESTIMONY**. 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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sent electronically to all email addresses on the Proof of Service list;

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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, 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