



**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  
ORDER No. 11-0615-22**

**COMMISSION ORDER ON MOTIONS OF CITY OF CARLSBAD,  
CENTER FOR BIOLOGICAL DIVERSITY, AND ROBERT SIMPSON**

This Commission Order addresses four motions pending prior to or made during the Energy Commission's consideration of the Presiding Member's Proposed Decision (PMPD) and Errata on June 15, 2011.

**ORDER**

The Commission **ORDERS** the following:

1. The **City of Carlsbad**, in a Motion to Take Official Notice, dated June 1, 2011, requests that the Commission take official notice of the Application of San Diego Gas & Electric Company (U 902 E) for Authority To Enter Into Purchase Power Tolling Agreements With Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power, and Prepared Direct Testimony of San Diego Gas & Electric Company In Support Of Application for Authority to Enter Into Purchase Power Agreements With Escondido Energy Center, Pio Pico Energy Center And Quail Brush Power Project, filed May 19, 2011, with the California Public Utilities Commission. We TAKE OFFICIAL NOTICE of those documents for the limited purpose of recognizing that San Diego Gas & Electric Company has proposed to enter into the contracts. We do not take notice of the documents for the broader purposes proposed by the City, such as providing testimony on the effects on the electricity system from operation of those units and the "need" for the Carlsbad Energy Center Project. It would be unfair to do so at this late point in this proceeding as the other parties have not had the opportunity to digest this information or to prepare any responses.
2. The **Center for Biological Diversity's** Motion to Take Official Notice and Re-Open the Evidentiary Record, dated June 8, 2011, is **DENIED**. The Motion requests that we take official notice of 17 documents, including press reports. With the exception of one document, all were available prior to the May re-opened evidentiary hearings and no basis for the failure to offer them at that time

has been provided. Proposed Exhibit J, is a CAISO Summary of Preliminary Results of 33 percent Renewable Integration Study. While potentially relevant, its preliminary nature and the hardship and delay that would result in relitigating the issues once again lead us to conclude that, on balance, this document should not be considered. At some point the record must close and the parties must move forward.

3. On June 8, 2011, **Robert Simpson** filed a Motion for Rescission of the May 9, 2011 PMPD pursuant to section 1716.5 of title 20. We **DENY** the Motion. Such a literal interpretation of the regulations would result in the Commission being prohibited from holding any evidentiary hearing after a PMPD is issued regardless of the availability of relevant new evidence.

We do agree that, if a subsequent evidentiary hearing results in a revised proposed decision on an application, additional notice may be required pursuant to Section 1753. We have decided to continue the adoption hearing until June 30, 2011, to allow all parties and members of the public to provide comments on the revisions contained in the Errata to the PMPD released on June 14, 2011.

4. In response to Mr. Simpson's PMPD comments on gas pipeline safety, Siting Staff, Dr. Alvin Greenberg and Mr. Rick Tyler, spoke during our June 15 meeting about how Staff conducts its pipeline safety analysis in all cases. Mr. Simpson's attorney moved to strike the comments on the purported grounds that they constituted new evidence. The motion is **DENIED**. The statements were unsworn comments offered solely to respond to Mr. Simpson's comments, which had not been previously raised. Notably, Mr. Simpson's comments consisted of bare assertions that were not supported by any evidence in the record.

Dated: June 15, 2011, at Sacramento, California.



ROBERT B. WEISENMILLER  
Chairman



JAMES D. BOYD  
Vice Chair



KAREN DOUGLAS  
Commissioner



CARLA PETERMAN  
Commissioner



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

**Docket No. 07-AFC-6  
PROOF OF SERVICE  
(Revised 5/18/2011)**

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DECLARATION OF SERVICE

I, Maggie Read, declare that on June 20, 2011, I served and filed copies of the attached Commission Order on Motions of City of Carlsbad, Center for Biological Diversity, and Robert Simpson, dated June 15, 2011. 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 documents have 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;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date 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  
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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.

Original signed by:  
Maggie Read  
Hearing Adviser's Office