

William B. Rostov (State Bar No. 184528)
EARTHJUSTICE
50 California Street, Suite 500
San Francisco, California 94111
Tel: (415) 217-2000; Fax: (415) 217-2040
wrostov@earthjustice.org

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Attorney for Intervenor
Center for Biological Diversity

STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:)
) DOCKET NO: 07-AFC-6
)
) CENTER FOR BIOLOGICAL
CARLSBAD ENERGY CENTER PROJECT) DIVERSITY'S ADDITIONAL COMMENTS
) ON MARCH 28, 2012 REVISED PMPD
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INTRODUCTION

The Center for Biological Diversity (the “Center”) provides these additional comments on the Revised Presiding Member’s Proposed Decision. These comments further critique the PMPD.¹

ARGUMENT

I. The PMPD’s Generic Analysis of the Project’s Role in the Energy System Is Inadequate.

The PMPD provides a generic analysis of renewable integration and without any detail ascribes a general need for new natural gas plants. However, there is no analysis of the amount of capacity or the specific attributes necessary for renewable integration in the San Diego region. Instead, the PMPD puts forth generic characteristics that apply to any combined cycle gas plants. (*See, e.g.*, Revised Presiding Member’s Proposed Decision, GHG, p. 6.1-16 [Hereinafter “PMPD”].) The PMPD then makes corresponding generic findings of fact. For example, the PMPD states: “Intermittent generation needs dispatchable generation, such as the CECP, in order to be integrated effectively into the electricity system.” (PMPD, GHG, p. 6.1-20, Finding of Fact No. 12.) It also finds that “[t]he addition of some amount of efficient, dispatchable, natural-gas-fired generation will be necessary to integrate renewables into California’s electricity system and meet the state’s RPS and GHG goals, but the amount is not without limit.” (*Id.*, Finding of Fact No. 15.) These findings also underpin the purported benefits of the project. (*See, e.g.*, PMPD, Override Findings, p. 9-10.) Yet, after the hundred pages of analysis in the PMPD we are no closer to the answer on the limit, and it could be zero.

¹ These additional comments are timely filed on April 27, the comment deadline for the PMPD. As requested by the Committee, the Center filed earlier comments on April 17 prior to the April 19 PMPD hearing. These comments supplement the Center’s previous arguments.

The Public Utilities Commission in its just completed Long-Term Procurement Proceeding found there is no need for “additional generation by 2020 at this time, and accordingly it is reasonable to defer authorization to procure additional generation based on system and renewable integration need.” (California Public Utilities Commission, Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement, Decision 12-04-046, p. 10 [April 19, 2012].) The CPUC decision further explains that “[w]hile the focus of this proceeding extends out to 2020, it is important to note that the record similarly does not support a finding of need for additional generation beyond 2020. Accordingly, it is also reasonable to defer procurement of generation for any estimated need after 2020.” (*Id.*, p. 10 n. 9.) The parties are left with findings in the PMPD that are categorically different than CPUC’s findings on renewable integration.²

Moreover, despite the length of the proceeding and the Center’s urging, Staff and the PMPD did not perform a specific analysis of how this Project fits into the energy system. Instead, Staff and the PMPD resort to making generic assumptions about the workings of the California grid. For example, the PMPD claims that the Project will displace existing energy sources and concludes that the Project will result in a net reduction of greenhouse gases. (*See, e.g.*, PMPD, GHG, p. 6.1-111 [citing Exh. 222, p. 4.1-105].) However, the record contains no testimony that demonstrates how or where such reductions will occur. For example, Staff claims that the CECP will replace aging and inefficient units and once-through cooling units for local reliability purposes (Exh. 222 at 4.1-111-115), but Staff did not identify any units other than

² The CPUC decision did separate the issue of local capacity in San Diego into the on-going PUC proceeding addressing the three Power Purchase Agreements. (*Id.*, p. 13.) Yet, after four years of this process, there is little specific information generated from this proceeding that would contribute to the on-going CPUC proceeding. In fact, it recently came to light that the information CAISO supplied in December was inaccurate. (*See, e.g.* Center’s Comment on March 28, 2012 Revised PMPD, p. 8 [April 17, 2012].)

Units 1, 2, and 3 at the existing Encina plant that would actually retire as a direct result of the project. (Exh. 222 at 4.1-114.)

Without showing its math or from where exactly the purported greenhouse gas reductions will come, the PMPD adopts Staff's approach that urges the public to trust that more greenhouse gases will be reduced throughout the greater electric systems than will be added as a result of the Project. Mr. Walters made clear at the evidentiary hearing that Staff did not calculate, nor even identify, the GHG reductions that could be expected from any of the sources alleged to be affected by the Project. When asked by Mr. Rostov "did you net out that the reductions from Units 1 to 3 out of your analysis to get like 600,000 emissions?" (Evidentiary Hearing Transcript, at 241:2-4 [Feb. 3, 2010].) Mr. Walters responded "No. Our analysis was broader than that. It included more than just the Encina plant [...] we look at this in a system-wide basis, we are not looking at this as a point source." (*Id.* at 241:5-10.) Mr. Rostov then asked, "But some of the net reductions will come from the Units 1 to 3, right, and you counted those - - you counted a baseline of 240,000, correct?" (*Id.* at 241:14-17.) To which Mr. Walters replied: "No, not exactly. As I indicated, we're doing it system-wide. There will be reductions from various sources, including Units 1 through 3; there will be reductions from Units 4 and 5, which would need to operate less; there would be reductions from other units across the area, the peaking units, but we do not quantify any specific unit. (*Id.* at 241:18-24 [Emphasis added].) He explained that "[t]here's no specific quantification because there's no specific knowledge of which plants would go off at any particular time" (*Id.* at 242:3-5.) Mr. Walters explains that "[i]t is quantitative to the point of us being able to identify it as being a reduction, that there is a negative value. It's not -- that is quantitative. It's not specific, but it is quantitative." (*Id.* at 254:4-7.) Similarly, the Applicant came to the same unsupported conclusion; Mr. Rubenstein

stated that “once we've concluded that there's a net reduction, the quantification of reduction is not necessary.” (*Id.* at 306:3-4.) Mr. Layton reports that Staff “found that it’s negative emissions, it is a decrease in emissions. That seems to be an appropriate level of quantification to allow a decision to be made.” (*Id.* at 316:15-18.)

The net reduction conclusion is not supported by substantial evidence. (*cf.* PMPD, GHG, p. 6.1-111 [citing Exh. 222, p. 4.1-105].) The blanket assertion that the project will reduce emissions is exactly the type of “unsubstantiated opinion” and “clearly inaccurate” claim CEQA rejects. (Pub. Res. Code § 21082.2(c); *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 409 n.12 [“[a] clearly inadequate or unsupported study is entitled to no judicial deference”]; *Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17 [“conclusory statements do not fit the CEQA bill”].)

The main piece of specific information is that there may be a 20 - 50 MW need in the Encina subarea. This need seems to be driving the decision to approve a 540 MW power plant even though this subarea need could be addressed by a one million dollar transmission project rather than a five hundred million dollar power plant. (PMPD, Alternatives, pp. 3-14-15; PMPD, Override Findings, p. 9-6.)

II. The PMPD Mistakenly Relies on Outdated Testimony Related to the PSD Permitting.

The PMPD incorrectly states that Project satisfies all federal air laws. The PMPD states: “Staff testified that the CECP will satisfy all other applicable federal, state, and local LORS relating to air quality.” (PMPD, Air Quality, p. 6.2-26 [citing Exh. 222, pp. 4.1-52 – 4.1-58].) Although the PMPD correctly cites Staff’s analysis, that analysis is dated and incorrect. The cited document, Exhibit 222, contains dated information that states: “[t]he applicant has stipulated to emission levels that ensure that the project’s net emission increase of pollutants

would be below PSD permit trigger levels.” (Exh. 222, p. 4.1-52.) This approach was subsequently rejected by EPA when EPA withdrew its PSD non-applicability finding. (Exh. 457.) These statements in the PMPD should be deleted. As discussed in the Center’s last comments, the PMPD has not made the requisite PSD findings. (Center’s Comment on March 28, 2012 Revised PMPD, pp. 1-8.)

III. Incorrect Information From CAISO Improperly Underpins Statements and Conclusions in the PMPD.

As discussed at the April 17th hearing, the PMPD improperly contains conclusions based on CAISO’s incorrect testimony. For example, the PMPD states: “[t]he most recent projections provided by Commission staff, indicate that more capacity may be needed than would be provided by either the CECP or the PPA projects individually. (12/12/11 RT 14 – 15.) In this scenario, the PPAs are not alternatives to CECP but instead they supplement each other.” (PMPD, Alternatives, p. 3-14.) The Committee should base its decision on an accurate record. (Center’s Comment on March 28, 2012 Revised PMPD, pp. 8-10.)

CONCLUSION

These comments supplement the Center’s Comments submitted prior to the PMPD hearing as well as its comments at the hearing. The Center also incorporates by reference its extensive briefing since the February 2010 Evidentiary Hearings. Based on all of its comments, the Center urges the Commission to either deny approval of the Project or alternatively, to substantially revise the PMPD, correcting its factual and legal deficiencies.

DATED: April 27, 2012



William B. Rostov
Earthjustice
Attorney for Center for Biological Diversity



**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 3/27/2012)**

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-recipient@caiso.com

INTERVENORS

Terramar Association
Kerry Siekmann & Catherine Miller
5239 El Arbol
Carlsbad, CA 92008
siekmann1@att.net

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Allan J. Thompson
21 "C" Orinda Way #314
Orinda, CA 94563
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
Joe.Garuba@carlsbadca.gov
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
wrostov@earthjustice.org

Power of Vision
Julie Baker & Arnold Roe, Ph.D.
4213 Sunnyhill Drive
Carlsbad, California 92013
julbaker@pacbell.net
roe@ucla.edu

Rob Simpson
Environmental Consultant
27126 Grandview Avenue
Hayward, CA 94542
rob@redwoodrob.com

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

**ENERGY COMMISSION –
DECISIONMAKERS**

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

Galen Lemei
Adviser to Commissioner Douglas
glemei@energy.state.ca.us

Tim Olson
Adviser to Commissioner Douglas
tolson@energy.state.ca.us

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
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Jessie Baird, declare that on April 27, 2012, I served and filed a copy of the attached CENTER FOR BIOLOGICAL DIVERSITY'S ADDITIONAL COMMENTS ON MARCH 28, 2012 REVISED PMPD. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [\[www.energy.ca.gov/sitingcases/carlsbad/ index.html\]](http://www.energy.ca.gov/sitingcases/carlsbad/index.html).

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California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California 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.



Jessie Baird