

## DOCKETED

<b>Docket Number:</b>	15-AFC-01
<b>Project Title:</b>	Puente Power Project
<b>TN #:</b>	220356
<b>Document Title:</b>	Applicant's Motion to Strike City of Oxnard Proposed Exhibit No. 3071
<b>Description:</b>	N/A
<b>Filer:</b>	Paul Kihm
<b>Organization:</b>	Latham & Watkins LLP
<b>Submitter Role:</b>	Applicant Representative
<b>Submission Date:</b>	7/25/2017 11:46:29 AM
<b>Docketed Date:</b>	7/25/2017

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8 State of California

9 Energy Resources

10 Conservation and Development Commission

11 In the Matter of:  
12 Application for Certification  
13 for the PUENTE POWER PROJECT

Docket No. 15-AFC-01

14 APPLICANT'S MOTION TO STRIKE CITY OF  
15 OXNARD PROPOSED EXHIBIT NO. 3071

16 Pursuant to Title 20, California Code of Regulations ("CCR") § 1211.5(a) and  
17 § 1212(b)(2), Applicant hereby requests that the Committee exercise its authority under Title 20,  
18 CCR § 1203(c) to exclude from the evidentiary record intervener City of Oxnard's proposed  
19 Exhibit No. 3071 "Download from Our Coast Our Future Website" (TN #220300) on the basis  
20 that the proposed evidence was not filed with the California Energy Commission Dockets Office  
21 on a timely basis as required by numerous Committee Orders.

22 In its March 10, 2017 "Committee Orders for Additional Evidence and Briefing  
23 Following Evidentiary Hearings" (TN #216505) (the "March 10 Orders"), and June 9, 2017  
24 "Committee Ruling on Motion to Exclude Caldwell Testimony and Acceptance of ISO Special  
25 Study Offer" (TN #218016), the Committee established the permissible scope of any additional  
26 testimony or documentary evidence that may be introduced in the upcoming evidentiary  
27 hearings.

28 The Committee's May 11, 2017 "Revised Scheduling Order" provides for the submission  
of additional evidence from all parties on all four subtopics within the scope of the March 10

1 Orders by June 15, 2017, with the exception of the Applicant’s filing of the focused biological  
2 survey results, which are due by June 23, 2017.<sup>1</sup> Responsive evidence was due no later than  
3 July 14, 2017.<sup>2</sup> These deadlines were affirmed in the June 9, 2017 “Committee Ruling on  
4 Motion to Exclude Caldwell Testimony and Acceptance of ISO Special Study Offer” (TN  
5 #218016), and again in the June 20, 2017 “Committee Orders Extending ISO Study Time,  
6 Denying City Request for Additional Time and Revised Committee Schedule Committee Orders  
7 Extending ISO Study Time, Denying City Request for Additional Time and Revised Committee  
8 Schedule” (TN #219815). The City of Oxnard’s proposed Exhibit No. 3071 was docketed on  
9 July 21, 2017, well after the deadline for submission of additional evidence, and must be  
10 excluded from the evidentiary record.

11 Furthermore, proposed Exhibit No. 3071 is identified for the first time by simply being  
12 included in Attachment A to the City’s Prehearing Statement. The proposed exhibit consists of a  
13 two-page website download with no further explanation as to what it depicts, how it is relevant  
14 to these proceedings and within the scope of the March 10 Orders, which of the City’s proposed  
15 witnesses intends to sponsor the proposed exhibit, or whether and how the sponsoring witness  
16 intends to utilize the proposed exhibit during the upcoming evidentiary hearings. The late filing  
17 of Proposed Exhibit No. 3071 without any context or explanation means that other Parties are  
18 precluded or severely limited in their ability to respond to the proposed exhibit and any  
19 arguments based thereon. Under these circumstances, it would be highly prejudicial to allow  
20 proposed Exhibit No. 3071 into the record and it must be excluded.

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22 DATED: July 25, 2017

Respectfully submitted,

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*/s/ Michael J. Carroll*

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27 <sup>1</sup> TN #217550.

28 <sup>2</sup> TN #217550.