

DOCKETED

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Document Title:	City of Carlsbad Proposal
Description:	Proposal to Consolidate Petitions during Discovery
Filer:	Sabrina Savala
Organization:	City of Carlsbad/ Allan J. Thompson
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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Petitions to Amend the)
Carlsbad Energy Center)
Project)
_____)

Docket No. 07-AFC-06C

**CITY OF CARLSBAD PROPOSAL TO
CONSOLIDATE PETITIONS DURING DISCOVERY**

Background

On April 29, and May 2, 2014 Carlsbad Energy Center LLC (Petitioner) filed two petitions to amend its license for the Carlsbad Energy Center Project (CECP). The first petition, characterized as a “petition to remove” requests an amendment allowing the removal of three additional oil storage tanks (tanks 1, 2, and 4) that were not included in the original license. The second petition, characterized as a “petition to amend” seeks modification of its existing license to use simple-cycle generation technology, and the subsequent demolition of the existing Encina Power Station generating units 1-5, along with various attendant changes. On May 6 of this year, Power of Vision (POV) and affiliated individuals filed a request with this Commission to process the Applicant’s Petition to Remove (PTR) tank number 4 and its Petition to Amend (PTA) utilizing the same hearings and procedures. On June 27 the Assigned Committee requested that responses and comments on these proposals are to be filed by July 31, 2014. Subsequent to this request, Commission Staff filed a motion to consolidate the two petitions primarily because of internal staff confusion and uncertainty regarding data requests and workshops and the potential for similar confusion on the part of the public and other agencies. The Petitioner also filed a brief in favor of processing the two petitions separately to provide flexibility, provide community and environmental benefits, and meet the commitment it made to the City in the Settlement Agreement. The City of Carlsbad (City), being an interested entity, hereby offers a procedural suggestion that may resolve all parties concerns.

City Proposal

City hereby requests that the Committee join the POV and PTR proceedings for the limited discovery phase of the Commission's proceedings. Following the end of discovery staff would issue an analysis for each petition and the Assigned Committee could then deal with each petition on applicable schedules.

Proposal Benefits

The City is sympathetic to POV's desire to be able to deal with its issues, which may be common to both the PTA and the PTR, and the CEC Staff's desire to reduce confusion and uncertainty during discovery. The City proposal allows POV and CEC Staff to hold discovery and explore their issues in a common forum, thus making it easier for POV to define its issues and reducing confusion for the Staff. Petitioner is interested in a "fast track" tank removal process as described in its PTR. The City believes an acceptable "fast track" could be realized with minimum delay under its proposal since the CEC staff could prepare an analysis and move quickly to a decision on removal of the obsolete tanks yet allow adequate time for review of the more complicated amendment of the CECP. This proposal would also satisfy the City's interest of taking concrete and early action to remove some of the visual and land use impacts associated with the legacy of the Encina Power Station and associated facilities.

More importantly, this proposal would also satisfy the City's interest in taking concrete and early action to remove some of the visual and land use impacts associated with the legacy of the Encina Power Station and associated facilities. It is consistent with the community's interests and the City's efforts to reduce industrial uses and blight in the coastal zone, improve the visual quality of the area, and upgrade future land uses on the site. These objectives are reflected in the Settlement Agreement between the City, NRG, and SDG&E that was unanimously approved by the City Council. Demolition of all the obsolete tanks will also help expedite construction of the CECP and demolition of the Encina Power Station with its once-through cooling requirements.

Authority

The Committee has the authority to join the discovery portions of the two petitions and allow an expeditious decision on each as described herein. 20 CCR 1719 reads as follows:

- (a) Upon motion of a member of a committee or any party, and for good cause shown, the committee may order the consolidation of part or all of any notice or application proceeding, or the severance of part of any notice or application proceeding, if reasonably necessary to ensure the complete, fair or timely consideration of any siting proposal.
- (b) A decision on any site and related facility shall not be delayed by reason of consolidation or severance unless agreed to by the Applicant.

Petitioner cited 25218 (e) of the California Public Resources Code, which specified that the Commission is authorized to “take any action it deems reasonable and necessary to carry out this division.”

Implementation of Partial Joinder

The City envisions that joinder for discovery could entail either separate or combined data requests. Responders should try to separate submittals by Petition, but submit in a combined document. Workshops to discuss data request responses could deal with petition-specific responses and general responses applicable to both petitions. Following the end of discovery, the PTA and PTR would then be separated, thus allowing the PTR to be “fast tracked” to the conclusion of this matter.

Conclusion

The City of Carlsbad hereby requests the Committee, Petitioner, Staff and intervenors consider the above-described proposal. The City looks forward to discussing this proposal at the Committee’s August 7, 2014 Environmental Scoping Meeting and Committee Conference.

July 31, 2014

/s/Allan Thompson
Allan J. Thompson
21 “C” Orinda Way, #314
Orinda, CA 94563
(925) 258-9962
allanori@comcast.net
and
Celia Brewer, City Attorney
1200 Carlsbad Village Dr.
Carlsbad, CA 92008
Attorneys for City of Carlsbad

Certificate of Service and Service List

I, Allan J. Thompson, hereby certify that on this date, I served the following listed entities either by e-filing, or by US Mail a document entitled "CITY OF CARLSBAD PROPOSAL TO CONSOLIDATE PETITIONS DURING DISCOVERY" in Docket NO. 07-AFC-06C.

Petitioner

George L. Piantka
Director, Environmental Services
NRG Energy, West Region
5790 Fleet Street, Suite 200
Carlsbad, CA 92008
George.piantka@nrgenergy.com

John A McKinsey
Locke Lord, LLP
500 Capital Mall, Suite 1800
Sacramento, CA 95814
jmckinsey@lockelord.com

George Mason, Project Manager
CH2MHill
6 Hutton Center Drive, Suite 700
Santa Ana, CA 92707
Robert.mason@CH2M.com

Intervenors

Arnold Roe, Ph.D
Power of Vision
3210 Piragua Street
Carlsbad, CA 92009
roe@ucla.edu

Julie Baker
Power of Vision
4213 Sunnyhill Drive
Carlsbad, CA 92008
visioncarlsbad@gmail.com

Kerry Siekmann
Terramar Association
5239 El Arbor Drive
Carlsbad, CA 92008
siekman1@att.net

Commission Staff

Efiling archive
California Energy Commission
Sacramento, CA
efilingPOSarchive@energy.ca.gov

Mike Monosmith, Senior Project Manager
California Energy Commission
Siting, Transportation & Environmental Protection Div
1516 Ninth Street, MS-15
Sacramento, CA 95814
mike.monosmith@energy.ca.gov

Richard Ratliff, Staff Counsel
California Energy Commission
Office of the Chief Counsel
1516 Ninth Street, MS-14
Sacramento, CA 95814
Dick.ratliff@energy.ca.gov

Committee

Karen Douglas, Presiding Member
Commissioner
California Energy Commission
Sacramento, CA

Paul Kramer, Chief Hearing Officer
California Energy Commission
Sacramento, CA

Andrew McAllister, Associate Member
Commissioner
California Energy Commission
Sacramento, CA

Eileen Allen, Commissioners' Technical
advisor for Facility Licensing
California Energy Commission
Sacramento, CA

Hazel Miranda, Advisor to Comm McAllister
California Energy Commission
Sacramento, CA

Patrick Saxton, Advisor to Com McAllister
California Energy Commission
Sacramento, CA

Eli Harland, Advisor to Com Douglas
California Energy Commission
Sacramento, CA

Jennifer Nelson, Advisor to Com Douglas
California Energy Commission
Sacramento, CA

Public Advisor

Alana Mathews, Public Advisor
California Energy Commission
Public Advisor's Office
1516 Ninth Street, MS-12
Sacramento, CA 95814
publicadvisor@energy.ca.gov

July 31, 2014

/s/Allan Thompson

Allan J. Thompson