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Filer:	David Zizmor
Organization:	Helping Hand Tools/Robert Simpson
Submitter Role:	Intervenor Representative
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STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:)
)
Petition to Remove Obsolete)
Facilities to Support Construction)
Of the Carlsbad Energy Center)
Project and Petition to Amend the)
Carlsbad Energy Center Project)
_____)

Docket No. 07-AFC-06C

**Response of Robert Simpson/Helping Hand Tools to Clarify his October 6, 2014 1712(b)
Objection to Committee Prejudice of Petition to Intervene, etc. (TN 203166)**

Pursuant to the California Energy Commission’s Notice of Hearing on Pending Motions and Committee Status Conference (TN 203187) submitted on October 10, 2014, Robert Simpson submits this response to his October 6, 2014 “1712(b) Objection to Committee Prejudice of Petition to Intervene, etc. (TN 203166) in a timely manner.

It is not the purpose of this response to supersede any of the discussion set forth in Mr. Simpson’s original submission (*see* TN 203166), but merely to clarify it.

The primary purpose of Mr. Simpson’s original submission was to object to the Commission granting him only limited intervenor status (*see* Committee Order Partially Approving Rob Simpson’s Petition to Intervene, September 23, 2014, TN 203091) and to petition the Commission to remove those limitations and allow him unrestricted intervenor status in this proceeding.

First, and most importantly, the Commission should recall that Mr. Simpson petitioned for and was granted unrestricted intervenor status in the original Carlsbad proceeding (*see* Robert Simpson Petition for Intervention, October 1, 2008, TN 48272; Order Granting Petition to Intervene, October 14, 2008; TN 48575). Upon receiving intervenor status, Mr. Simpson was an

active participant in all phases of the proceeding, discussing and challenging various aspects of the Carlsbad Energy Center Project (“CECP”) over the course of nearly four years.

An examination of Mr. Simpson’s 2008 and 2014 petitions for intervenor status reveals that they are essentially the same save for changes to the ages of his children reflecting the passage of six years. Nevertheless, while the 2008 petition (TN 48272) and the 2014 petition (TN 202888) are virtually identical, the results were decidedly different, with full intervention allowed in 2008 (TN 48575) but only limited intervention granted in 2014 (TN 203091). This despite the fact that the proceeding in both instances deals with what is essentially the same project: a natural gas power plant in Carlsbad, CA. Indeed, while some of the project details have changed, they have not changed enough for the Commission to even bother changing the number it uses to identify the proceeding. Given the identical nature of Mr. Simpson’s petitions to intervene and the similarity of the proceedings, the Commission’s inconsistency in granting intervenor status to Mr. Simpson is not only troubling and inexplicable, but arbitrary and capricious as well as against the Commission’s rules of practice and procedure as stated in California Code of Regulations § 1207.

CCR § 1207(a) states that an intervenor’s petition “shall set forth the grounds for the intervention, the position and interest of the petitioner in the proceeding, [and] the extent to which the petitioner desires to participate in the proceedings....” Mr. Simpson detailed all of these requirements in his 2014 petition to intervene (TN 202888), citing CEQA as the grounds for his intervention, his “interest in California energy production and power plant licensing,” his position to provide an “independent and informed citizen’s perspective to the licensing process” to help “provide public protection and preservation of the environment,” and his desire to “fully participate in the proceeding,” thereby fulfilling all of the requirements set forth in CCR § 1207(a). Yet, as discussed above, while these explanations were accepted as grounds for unlimited intervenor status in 2008 (TN 48575), the Commission only granted limited intervenor status here (TN 203091), allowing Mr. Simpson to only comment on “the topics of Air Quality, Greenhouse Gas emissions, and Public Health.” (TN 203091)

While Mr. Simpson intends to comment on those topics, he objects to the scope of his comments being limited to *only* those topics (*see* TN 203166 at pp. 4-5). More to the point, those topics are intertwined with other, more technical ones. For example, the impact of the CECP on air quality, greenhouse gas emissions, and public health can change depending on whether the facility design features a combined cycle or single-cycle design. As such, Mr. Simpson should have the ability to comment on facility design and all other topics (listed in TN 203166 at pp. 4-5) in this proceeding.

Mr. Simpson also objects to the Commission's failure to provide notice of CECP's Petition to Amend (TN 202287-2) to him and everyone else on the service list in the original CECP proceeding (i.e. Docket No. 07-AFC-06). As an intervenor in that proceeding, Mr. Simpson should have been notified of any petition to amend the project in question. He did not receive such notification and filed an objection stating as much on August 1, 2014 (TN 202868). The Commission has yet to respond or rule on that objection, which Mr. Simpson re-filed in his October 6th objection (TN 203166 at p. 2). Mr. Simpson requests that the Commission respond to this objection.

As an intervenor in the original CECP proceeding, Mr. Simpson received notice of all actions taken. Upon submission of the CECP's Petition to Amend, the Commission created a "new" proceeding. As a result of creating this "new" proceeding, Mr. Simpson and all others who were intervenors in the original proceeding were forced to re-apply for their intervenor status. It is not clear why the Commission created this "new" proceeding in the first place as this "new" proceeding only involves amending the original CECP certification. An amendment is, by definition, an addition or change to something that already exists. Since the Commission is dealing with an amendment to an existing certification from an existing proceeding with an existing set of intervenors, there is nothing indicating that the current proceeding is "new" rather than a continuation of the original. That being the case, the status of intervenors should have carried over from the original proceeding to the current "new" proceeding and, since Mr. Simpson had unrestricted intervenor status in the original proceeding (TN 48575), he should have the same unrestricted status now. Moreover, because the "new" proceeding is merely a

continuation of the original, Mr. Simpson should have remained on the service list and received notice of the CECP Petition to Amend.

For the foregoing reasons as well as those stated previously in TN 203166, the Commission should remove all restrictions on Mr. Simpson's petition to intervene and receive a response to his objection to the Commission's failure to notify him of the "new" CECP proceeding.

Respectfully submitted on October 21, 2014 by:
David Zizmor
Attorney for Robert Simpson/Helping Hand Tools
27126 Grandview Avenue
Hayward, CA 94542
510-531-6004
dazizmor@gmail.com

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Date

ORIGINAL SIGNED BY

David Zizmor