

## DOCKETED

<b>Docket Number:</b>	07-AFC-06C
<b>Project Title:</b>	Carlsbad Energy Center - Compliance
<b>TN #:</b>	203846
<b>Document Title:</b>	City of Carlsbad Prehearing Conference Statement
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STATE OF CALIFORNIA  
Energy Conservation and Development Commission

In the matter of: )  
Petitions to Amend the ) Docket 07-AFC-06C  
Carlsbad Energy Center Project )

**City of Carlsbad  
Prehearing Conference Statement**

Introduction.

The City of Carlsbad (City), an interested government agency, hereby files its Prehearing Hearing Conference Statement. Concurrently, the City is filing its proposed testimony. The City files these documents together to better bring the issue of how best the City should offer witnesses and sponsor exhibits at the forthcoming hearings.

The City has been an active and regular participant in this proceeding. It has responded to written and oral requests for information from the Energy Commission staff, responded to requests for information from the Committee, participated in all workshops, Committee hearings and Committee conferences.

At the February 4, 2015 Status Conference on this application, the Hearing Officer offered the following at page 21:

“We’re certainly going to want you to have some city representatives available to us for perhaps some questions about land use and some other areas, water supply, and traffic perhaps”

In response to this request and our understanding of the Energy Commission’s power plant siting regulations, the City developed testimony (with sponsored exhibits) in the areas of land use, water supply, traffic, as well as noise and fire protection and is prepared to have witnesses available in other areas if needed by the Committee or other parties. Unfortunately, the Hearing Office in its “Notice of Prehearing Conference and Evidentiary Hearing, Scheduling Order and Further Orders” did not allocate exhibit numbers for City witnesses. The City recognizes that the Committee has the power to conduct hearings in any way that it desires. The City believes the Warren Alquist Act and the California Code of Regulations, however, both evidence a pattern of guidance that contemplates other state or local agency participation without the requirement that the state or local agency become an intervener or be represented by others, in most all phases of application proceedings (See Attachment). We request guidance from the Committee on whether our understanding of the Act and regulations is correct or whether the Committee believes or wants the City to either become a formal intervenor, be sponsored by another party, or be sponsored by the Committee to present testimony in this proceeding.

Prehearing Conference Statement Required Information

1. Issues of disagreement. There are no known issues of disagreement between the City and Applicant or Staff. The City offers to present testimony on certain areas for clarification:
  - a. Water Supply. The City commitment to provide potable, recycled water, and sewer service to the project and City comments on the need to prepare a water supply assessment.
  - b. Land Use. Conformance of the Amended CECP with City land use regulations and City's concurrence with modifications to condition LAND-1.
  - c. Fire Protection. Willingness of Carlsbad Fire Department to serve the amended CECP.
  - d. Noise. City witness to explain City noise requirements and respond to questions.
  - e. Traffic. City witness to respond to questions.
  
2. Witnesses, qualifications and evidence. The City offers the following:
  - a. Kirsten Plonka – City of Carlsbad, Utilities Division Engineering Manager  
Terry Smith – City of Carlsbad, Senior Engineer  
Letter regarding Will Serve letter (TN 203507: ex. 901)  
Letter regarding Water Supply Analysis (TN 203514:ex. 902)  
Letter regarding Water Supply Analysis (TN 203421: ex. 903)
  
  - b. Gary Barbario – City of Carlsbad Assistant City Manager  
Project Land Uses (TN 203544: ex. 904)  
General Land Use Element (TN 203558: ex. 905)  
Zoning Ordinance (TN 203557): ex. 906)  
Agua Hedionda Land Use Plan (TN 203555: ex. 907)  
Noise Standard (TN 203556: ex. 908)
  
  - c. Mike Lopez – City of Carlsbad Fire Division Chief and Fire Marshall
  
3. Witnesses to participate by phone – none
  
4. Other parties witnesses the City wants to question – none
  
5. Topic by topic recommendations on conduct of hearings – none
  
6. Issues requiring legal argument or briefing – none
  
7. Benefit of oral argument – no position
  
8. Time estimates: direct only – no cross or oral argument
  - a. Water supply – direct – 5 minutes
  - b. Land Use and Noise – direct – 10 minutes
  - c. Fire Protection – direct – 5 minutes
  
9. Official notice documents – none



## ATTACHMENT

### Selected Energy Commission Legislation and Regulations Regarding Agency Roles in Power Plant Siting Proceedings

Public Resources Code 25509.5

“...such hearing shall be conducted in order to accomplish all of the following purposes: . . .(c) to obtain the views and comments of the public, parties, and concerned governmental agencies. . .”

20 CCR 1702 (4)

Definitions “the hearing record includes: (4) Public agency comment offered at a hearing or entered into the record of a hearing”

20 CCR 1718.5

Prehearing Conferences. The presiding member . . .shall request the staff and each participating agency to indicate when each will be prepared to present the results of its assessments to the commission.”

20 CCR 1744 (c)

Hearings. A review of compliance with laws to include “the applicant’s proposed compliance measures and each responsible agency’s assessment of compliance shall be presented and considered at hearings on the application”

20 CCR 1748 (a)

Hearings. “...the applicant’s environmental information and staff and agency assessments required by section 1742 shall be presented.”