

## DOCKETED

<b>Docket Number:</b>	07-AFC-06C
<b>Project Title:</b>	Carlsbad Energy Center - Compliance
<b>TN #:</b>	203893
<b>Document Title:</b>	Robert Sarvey's Motion to Require the Filing of a New AFC
<b>Description:</b>	N/A
<b>Filer:</b>	Robert Sarvey
<b>Organization:</b>	Robert Sarvey
<b>Submitter Role:</b>	Intervenor
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<b>Docketed Date:</b>	3/16/2015

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA**

Petition to Amend  
The Carlsbad Energy Center

Docket Number 07-AFC-06C

ROBERT SARVEY'S MOTION TO REQUIRE THE FILING OF A NEW AFC

Intervenor Robert Sarvey hereby moves to require the applicant Carlsbad Energy Center to file a new AFC. The motion is made in order to allow the CEC to collect the AFC filing fee from the project proponent. Intervenor does not request any change in the underlying proceeding in any way. The sole purpose of the motion is to require Carlsbad Energy to provide the funding of the CEC analysis of the application 07-AFC-06C which is now being borne by the ratepayers.

Background

In 2007 Carlsbad Energy filed an application for certification (AFC) to construct a new 540 MW combined cycle project called the CECP. On 9-14-07 Carlsbad Energy was required to provide a check for \$281,903.76 which was the required filing fee for a new AFC at that time.<sup>1</sup> During the course of the 5 year proceeding the CEC spent \$543,175.60 on consultants alone.<sup>2</sup> This figure does not include CEC Staff time, CEC commissioner time, hearing expenses, and other CEC outlays over a 5 year period. Just on consultants alone the ratepayers funded the \$261,814 of the cost to process this AFC, that rightfully should have been funded by Carlsbad

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<sup>1</sup> Public Records Request Email from Jarad Babula January 12, 2015

<sup>2</sup> Public Record Request Email from Jarad Babula January 26, 2015

Energy. It must be noted that Carlsbad Energy is a wholly owned subsidiary of NRG a Company that achieved net income of \$117 million in the fourth quarter of 2014 alone.

In 2014 Carlsbad Energy filed for a change in the configuration of the Carlsbad Energy Center from a 540 MW combined cycle project to a 633 MW peaker project. At the same time Carlsbad Energy filed for an amendment of its air quality permit with the San Diego Air Pollution Control District. The air pollution control district required a new application and fee since the entire equipment package was to be changed in the amendment. The air district charged an application fee of \$186,613.<sup>3</sup> The air district rightfully did not allow Carlsbad Energy to shift the cost of processing their air permit to the residents of the County of San Diego.

The CEC on the other hand did not require the filing of a new AFC or a new application fee despite the fact that the projects footprint was enlarged and an entire new equipment configuration was proposed. Even though Energy Commission Staff warned that, *“The Petition to Amend and PTR are complex project amendments that differ from the licensed project in many ways. The complexity of the proposed amendments raises questions and analytical issues that are commensurate with those typically associated with an application for certification (AFC) of a newly proposed power project.”*<sup>4</sup> the CEC still did not require the filing of a new AFC.

The current fee for filing an AFC is \$268,709 plus \$537 a MW. There is also an annual compliance fee of \$26,872 for all projects granted a license.<sup>5</sup> The cost to file a new AFC for the amended CECP would be approximately \$608,630. But since the Commission is allowing Carlsbad to amend the CEC license rather than file a new AFC as they should be required to do, the cost to review this amendment is just the annual compliance fee of \$26,872. Ratepayer funds should not be used to provide corporate welfare to NRG. NRG has ample revenue to cover the cost of processing their AFC filing. Use of ratepayer funds diverts limited resources away from renewable energy and storage projects to fund the filing of a new application for a

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<sup>3</sup> [docketpublic.energy.ca.gov/PublicDocuments/07-AFC-06C/TN202326\\_20140513T092858\\_Application\\_for\\_an\\_Authority\\_to\\_Construct\\_Carlsbad\\_Energy\\_Cente.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/07-AFC-06C/TN202326_20140513T092858_Application_for_an_Authority_to_Construct_Carlsbad_Energy_Cente.pdf) Page 4 of 345

<sup>4</sup> [http://docketpublic.energy.ca.gov/PublicDocuments/07-AFC-06C/TN202887\\_20140806T153655\\_Carlsbad\\_Energy\\_Center\\_Project\\_Amendment\\_07AFC6C\\_%E2%80%93\\_Issues\\_Ident.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/07-AFC-06C/TN202887_20140806T153655_Carlsbad_Energy_Center_Project_Amendment_07AFC6C_%E2%80%93_Issues_Ident.pdf) Page 7

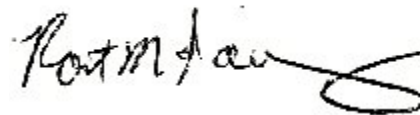
<sup>5</sup> <http://www.energy.ca.gov/sitingcases/>

natural gas fired power plant. This truly represents a violation of the States loading order. The CEC can easily remedy this situation by requiring Carlsbad Energy to file a new AFC and collect the \$606,630 that should cover the processing of this project at the CEC.

Conclusion

The original AFC process cost ratepayers an enormous amount of money to subsidize Carlsbad Energy's 2007 application. The Committee should not further damage ratepayer's interests by again allowing the ratepayers to fund the Carlsbad peaker application. The Committee should require that Carlsbad Energy file a new AFC and provide the \$606,630 necessary to process their new application for the 633 MW peaker project.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Sarvey", written over a horizontal line.

Robert Sarvey