

DOCKET 06-AFC-6	
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May 13, 2008

Via Email & U.S. Mail

Jeffrey D. Byron
Commissioner and Presiding Member
California Energy Commission
1516 Ninth Street, MS 32
Sacramento, California 94814-5512

Re: *Eastshore Energy Center AFC*
CEC Docket No. 06-AFC-6

Dear Commissioner Byron:

This is to follow up on your May 2, 2008 correspondence with Greg Hewitt, Vice President of Development and Engineering of Tierra Energy, LLC, the applicant in this proceeding.

In your letter you state that it "has been necessary for the Committee to carefully consider all of the evidence, including the testimony and voluminous documents submitted by the parties." Although we agree in general, this is to bring to the Committee's attention that on February 11, 2008, Group Intervenors moved to strike the statements of Scott Galati of PG&E and have consistently objected to any reference to the Tierra contract with PG&E which the applicant chose not to rely on and chose not to introduce as evidence.

In this regard, Group Intervenors further bring to the Committee's attention that Tierra's March 13, 2008 rebuttal brief, page 13, contends, "*No one disputes that the Eastshore substation location was part of PG&E's RFO.*" (Italics added.) Not only is this incorrect statement unaccompanied by any reference to the record, but this is to bring to your attention that Mr. Hewitt in fact testified directly to the contrary in response to your specific questions on this point on the last day of the evidentiary hearings:

PRESIDING COMMISSIONER BYRON:

I'll direct this to anyone that might be able to answer it. **Do we know, did PG&E's RFO for this procurement specify an injection point for this**

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power?

MR. TREWITT: Can you rephrase that again real quick.

PRESIDING COMMISSIONER BYRON: *Did PG&E specify the Eastshore substation as the injection point in the RFO?*

MR. TREWITT: *In the contract they do.*

PRESIDING COMMISSIONER BYRON: *But not in the request for offer for a proposal.*

MR. TREWITT: *In the request for offer it's basically the whole, the entire PG&E grid and with preference to the Bay Area.*

PRESIDING COMMISSIONER BYRON: Okay. In the contract they specify the injection point.

(III R.T., p. 84, lns. 9-25.)

Lastly, we would point out that based on our review of the applicant's March 13, 2008 rebuttal brief, Group Intervenors' arguments made in their March 3, 2008 brief remain *unrebutted* by the applicant.

Respectfully Submitted,

Jewell J. Hargleroad

cc: see attached proof of service