

Staff states, “Public participation is an integral part of the Energy Commission’s licensing proceedings, particularly for those members of the public who reside in the vicinity of projects that are certified by the Energy Commission, or for those members of the public who have a particular interest in some aspect of the project.”

All members of the public, including Mr. Simpson, have a particular interest in the licensing of new power plants. These interest include, but are not limited to, protection of human health, the environment, and wildlife; prevention of further depletion of natural resources; and monitoring the energy sector’s contribution to human induced climate change. Those who live and work in California have additional interests in insuring that ratepayer’s rights are protected and that their government is following state laws; for example, meeting requirements for targeted percentage of renewable energy sources. Yet, the Staff claims that Mr. Simpson has no “identifiable interest” in the project because he does not live near the project.

Staff provides no factual or legal basis for their result-oriented argument that an intervenor must now live near a project to have an interest in the potential development of a power plant. As the Commission is aware, for many year, Mr. Simpson and others have been granted intervenor status in proceedings for projects located throughout the state. Were the Commission to now deny intervention on the grounds that an intervenor must “reside in the vicinity of projects,” this would be a departure from a long-standing interpretation of regulation likely taken in violation of the California Administrative Procedures Act.

The Staff further charges: “Based on Mr. Simpson’s historical level of participation as an intervener and staff’s observation that he has not contributed in helping to create an informed record, we do not believe Mr. Simpson’s request to intervene merits approval. There is nothing that would prevent Mr. Simpson from participating in this matter as a member of the public to further his wishes that “all applicable laws are followed and that the environment and human health are protected through these proceedings. However, his one stated ground for intervention is alone insufficient to grant him party status.”

Although past participation in proceedings is irrelevant to the present Petition for Intervention, staff’s assertions that Mr. Simpson “has not contributed in helping to create an informed record” and is not “qualified to render anything other than a lay opinion” need to be addressed. These statements are not only untrue but represent a personal attack on Mr. Simpson showing staff’s willingness to discriminate again individuals based on their perceived position

regarding Commission matters. Surely, the Commission does not endorse such discrimination. Mr. Simpson moves the Commission censure the staff for its unprofessional, retaliatory behavior.

Staff's accusations are especially galling give the considerable effort, at great person expense, that Mr. Simpson has made to inform the process so that "all applicable laws are followed and that the environment and human health are protected through these proceedings"

Over the past decade, as a citizen of California, Mr. Simpson has seriously undertaken his responsibly, as articulated by the California Environmental Quality Act to "to contribute to the preservation and enhancement of the environment." He has contributed immensely to protecting the environment in proceedings for power plant development and has certainly informed the process. What the staff actually means when it attacks Mr. Simpson's contributions is that they don't like what he has contributed as it represents challenges to Commission action.

Mr. Simpson participated in the CEC proceedings for the Russell City Energy Center. He attempted to inform that process but was not heard and so was forced to address his concerns through the EPA. He won an appeal to the EPA Environmental Appeals Board resulting in a remand of the PSD permit. The story was the same with the Humboldt Bay Power Project and will likely be for the Avenal Power Plant. Mr. Simpson brought forth concerns to the CEC regarding the Gateway Generating Station. His concerns were not addressed resulting in the CEC licensing a project that was built without Federal pollution permits. He brought this to the attention of the EPA who subsequently sued the developer for violating the Clean Air Act in constructing and operating a power plant without the proper permits. Any extent to which Mr. Simpson's efforts have failed to inform the CEC is a result of a lack of reception to his factually and legally correct arguments, not for lack of trying.

Not content with personally attacking Mr. Simpson, staff has attempted to rewrite 20 C.C.R. § 1207 to limit intervention to parties of a certain description found nowhere in any statute, regulation, or case law. Staff states: "In previous matters in which he was allowed to intervene before the Energy Commission, staff is unaware of any hearing where Mr. Simpson has proffered expert testimony. Mr. Simpson has not authored his own reports or studies, nor is staff aware of any instance in which he has been qualified to render anything other than a lay opinion on the various technical areas that will encompass the Energy Commission's comprehensive environmental review of the current project."

Staff's mention of the fact that the time to submit data requests has already ended is yet another lame attempt to manufacture grounds for denial where no legal grounds exist. Staff implies that Mr. Simpson's petition is somehow untimely. Mr. Simpson's petition is certainly timely; as the Commission is surely aware, the 'lion's share' of the work on this project is yet to be completed and there have not yet been any documents docketed for which party comment has been solicited.

Mr. Simpson requests the Commission grant the Petition for Intervention based upon applicable law rather than deny it based upon staff's personal attacks.

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Respectfully,

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