

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

DOCKET

11-AFC-1

DATE Nov. 17 2011

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In the Matter of:

The Application for Certification for the
PIO PICO ENERGY CENTER PROJECT

Docket No. 11-AFC-01

**PIO PICO ENERGY CENTER, LLC'S OPPOSITION TO
ROB SIMPSON'S PETITION TO INTERVENE**

November 17, 2011

John A. McKinsey, Esq.
Melissa A. Foster, Esq.
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
Phone: (916) 447-0700
Facsimile: (916) 447-4781

Attorneys for PIO PICO ENERGY CENTER, LLC

STATE OF CALIFORNIA

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I. INTRODUCTION

On or about November 2, 2011, a Petition to Intervene ("Petition") was filed and served on behalf of Rob Simpson ("Mr. Simpson" or "Petitioner") in the Pio Pico Energy Center Project (the "Project") Application for Certification ("AFC") proceeding. Pio Pico Energy Center, LLC ("Applicant") herein opposes the Petition on the grounds that Petitioner fails to satisfy the requirements of Title 20, California Code of Regulations, section 1207.

II. ARGUMENT

A. The Petition Does Not Meet The Requirements of Section 1207

Section 1207 requires that a petitioner set forth "the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, address, and telephone number of the petitioner." (20 Cal. Code Regs. § 1207.) Petitioner fails to meet these requirements and, thus, the Committee should deny Mr. Simpson's Petition. Specifically, Petitioner fails to meet two key requirements of section 1207: (i) Mr. Simpson fails to state any grounds for intervention and (ii)

Mr. Simpson fails to state any pertinent position and interest in this proceeding. Instead, Mr. Simpson simply suggests his interest is to “insure[sic] that all applicable laws are followed and that the environment and human health are protected through these proceedings.” (Petition at p. 1.)

Mr. Simpson need not be a party to the proceeding for the purposes of ensuring “all applicable laws are followed.” (Petition at p. 1.) The CEC’s own regulations provide that the Commission cannot grant a certificate approving the project unless it finds that “the project will comply with all applicable standards, ordinances, and laws.” (20 Cal. Code Regs. §2030(d)(3).) Thus, the Commission already has a duty to ensure that all applicable laws are followed, regardless of whether Mr. Simpson is involved in the proceeding.

In addition, Mr. Simpson need not be granted intervenor status to follow this proceeding to ensure the process is transparent to the public, nor to ensure the protection of human health or the environment. All documents in every California Energy Commission licensing proceeding are availed to the public as the siting process is very much a public proceeding; a fact with which Petitioner is exceedingly familiar. Mr. Simpson knows he is always welcome to present his comments and questions to the Committee during public workshops and hearings on the Project.

Lastly, Mr. Simpson does not reside in the San Diego Region where PPEC is proposed to be constructed. He resides in Hayward, California, more than 450 miles from the proposed project site, and has not demonstrated any connection to the San Diego Region, let alone a specific interest in PPEC.

Because Mr. Simpson fails to provide any relevant interest or grounds for intervening in this proceeding and therefore does not meet the requirements of section 1207, Applicant respectfully requests that the Committee deny the instant Petition.

B. The Presiding Member Has Discretion To Deny the Petition

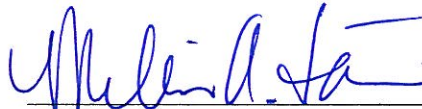
Although Title 20, California Code of Regulations, section 1207(c) states that the “presiding member may grant leave to intervene...,” section 1207 does not compel the presiding member or the Commission to grant every Petition to Intervene submitted in every proceeding. (20 Cal. Code Regs. §1207 (emphasis added).) Thus, the Presiding Member has the express discretion pursuant to section 1207 to deny the Petition.

III. CONCLUSION

For the reasons set forth herein, Mr. Simpson’s Petition should be DENIED.

Date: November 17, 2011

Stoel Rives LLP



Melissa A. Foster
Attorneys for Applicant
PIO PICO ENERGY CENTER, LLC

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
FOR THE *PIO PICO ENERGY CENTER, LLC*

Docket No. 11-AFC-1
PROOF OF SERVICE
(Revised 8/15/11)

Pio Pico Energy Center, LLC

Pio Pico Energy Center, LLC's Opposition to Rob Simpson's Petition to Intervene

APPLICANT

Gary Chandler, President
Pio Pico Energy Center
P.O. Box 95592
South Jordan, UT 84095
grchandler@apexpowergroup.com

David Jenkins, Project Manager
Pio Pico Energy Center, LLC
1293 E. Jessup Way
Mooresville, IN 46158
djenkins@apexpowergroup.com

APPLICANT'S CONSULTANTS

Maggie Fitzgerald, Project Manager
URS Corporation
2020 East 1st Street, Suite 400
Santa Ana, CA 92705
maggie_fitzgerald@urscorp.com

COUNSEL FOR APPLICANT

John A. McKinsey
Melissa A. Foster
Stoel Rives, LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
jamckinsey@stoel.com
mafoster@stoel.com

INTERESTED AGENCIES

California ISO
E-mail Preferred
e-recipient@caiso.com

ENERGY COMMISSION

CARLA PETERMAN
Commissioner and Presiding Member
cpeterma@energy.state.ca.us

Jim Bartridge
Adviser to Commissioner Peterman
jbartrid@energy.state.ca.us

KAREN DOUGLAS
Commissioner and Associate
Member
kldougl@energy.state.ca.us

Galen Lemei
Adviser to Commissioner Douglas
glemei@energy.state.ca.us

Raoul Renaud
Hearing Officer
rrenaud@energy.state.ca.us

Eric Solorio
Siting Project Manager
esolorio@energy.state.ca.us

Kevin W. Bell
Staff Counsel
kwbell@energy.state.ca.us

Jennifer Jennings
Public Adviser
E-mail preferred
publicadviser@energy.state.ca.us

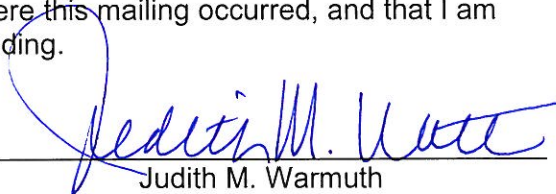
DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on November 17, 2011, I deposited copies of the aforementioned document and, if applicable, a disc containing the aforementioned document in the United States mail at 500 Capitol Mall, Suite 1600, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

AND/OR

Transmission via electronic mail, personal delivery and first class U.S. mail were consistent with the requirements of California Code of Regulations, Title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Judith M. Warmuth