

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:

PIO PICO ENERGY CENTER

PIO PICO ENERGY CENTER, LLC

Docket No. 11-AFC-01

July 5, 2012

**CALIFORNIA ENERGY COMMISSION STAFF'S RESPONSE TO  
CORRECTIONS CORPORATION OF AMERICA'S PETITION TO INTERVENE****I. INTRODUCTION**

Per the schedule established by the Committee's Notice of Prehearing Conference and Evidentiary Hearing ("Notice") dated June 15, 2012, the deadline to intervene in this proceeding is June 25, 2012. Corrections Corporation of America ("CCA" or "Petitioner") filed a Petition to Intervene on June 28, 2012, three days past the deadline to intervene. Staff files this Response to CCA's petition.

**II. STAFF DOES NOT OBJECT TO CCA'S PETITION TO INTERVENE**

Staff does not object to CCA's petition to intervene based upon the reasons set forth herein, supported by the attached declaration of Eric Solorio.

**A. Corrections Corporation of America Previously Voiced its  
Concerns to Staff, Which Staff Addressed in the Final Staff  
Assessment**

On March 26, 2012, legal counsel for CCA, Mr. Scott Williams, contacted Staff's project manager, Mr. Eric Solorio, to express CCA's concerns with Staff's Preliminary Staff Assessment (PSA) for the proposed Pio Pico Energy Center (11-AFC-1). CCA

was and is concerned with specific issues in the technical areas of Hazardous Materials and Noise. After Mr. Solorio and Mr. Williams spoke, Staff had several internal discussions about CCA's concerns and then had a follow up conference call with Mr. Williams to understand the specific technical aspects of CCA's concerns. After this call with CCA and holding several internal meetings, Staff concluded that CCA raised valid concerns which could be addressed by adding two new Conditions of Certification (CoC) that Staff could present in the Final Staff Assessment (FSA).

**B. Staff Offered the Applicant an Opportunity to Discuss the Proposed Conditions of Certification Prior to Publication of the Final Staff Assessment**

Because Staff was told by Mr. Williams that he had spoken with counsel for the Applicant making them aware of CCA's concerns, Staff asked the Applicant if they would like to hold a workshop to discuss and develop two new CoCs that Staff planned to incorporate into the FSA in order to address CCA's concerns. The Applicant declined to participate in a workshop (Declaration of Eric Solorio, p. 2, ¶6) so Staff proceeded to publish the FSA with the two new CoCs: HazMat-4 and Noise-4.

**C. Staff Inquired with the Applicant to Understand if the Applicant Planned to Contest any Part of the Final Staff Assessment**

After publication of the FSA, on three separate occasions, Staff offered to hold a workshop to discuss and resolve any issues the Applicant may have identified during their review of the FSA. The Applicant advised Staff there was no desire to hold a workshop and to the

best of their knowledge the Applicant did not plan to contest any of Staff's conclusions or recommended Conditions of Certification in the FSA (Id. Solorio Dec. p. 2, ¶7).

**D. Staff Advised Petitioner that Staff was Not Aware of Any Contested Issues**

Prior to the deadline to intervene, CCA contacted Staff and stated that CCA was happy with Staff's recommended CoCs: HazMat-4 and Noise-4 that addressed CCA's previously voiced concerns. Mr. Williams asked Staff if the Applicant planned to contest HazMat-4 and Noise-4. Staff conveyed the Applicant's prior representations to Staff - that there were not any issues that would require adjudication by the Committee (Id. Solorio Dec. p. 2, ¶8).

On June 26, 2012, the day after the deadline to intervene, the Applicant advised Staff that the Applicant planned to contest Noise-4 in their opening testimony, to be filed later that day. Mr. Solorio immediately contacted Mr. Williams to let him know the Applicant would be contesting the CoC's that addressed CCA's concerns (Id. Solorio Dec. p. 2, ¶9).

**III. THE PETITIONER MAY HAVE ADDITIONAL OR DIFFERENT CONCERNS THAT THEY SHOULD BE ALLOWED TO PRESENT ON THEIR OWN**

**A. The Petitioner May Have Unique Arguments to Present**

During the evidentiary hearings, Staff could call CCA as a witness to support Staff's recommended CoCs, HazMat-4 and Noise-4, in lieu of CCA appearing as an intervenor. However, the petitioner may have additional recommendations for conditions or different concerns that they should be allowed to present on their own.

**B. The Petitioner Should be Allowed to Present its Case on the Limited Issues It Has Raised in the Past, and Without any Delay to the Scheduled Evidentiary Hearing.**


If the petition is granted by the Committee, then CCA should only be allowed to present their evidence on the narrow issue(s) of the conditions of certification that CCA has raised concerns about, and nothing further. Because the petitioner has admittedly reviewed the PSA and FSA, petitioner should be prepared to present testimony and evidence by the time the evidentiary hearing is scheduled. The Committee should not delay the scheduled evidentiary hearing because this issue is focused on only two conditions.

**IV. CONCLUSION**

Because the Applicant told Staff that they would not oppose Staff's proposed conditions of certification, because Staff relayed that information to the petitioner, and because the Applicant has in fact filed opposition to the conditions, there has been a change in circumstances that support the intervention petition. Therefore, Staff does not object to CCA intervening to present its case (on the narrow issues) during the evidentiary hearings in this matter.

Date: July 5, 2012

Respectfully submitted,

  
Jeffery M. Ogata  
Assistant Chief Counsel

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:

PIO PICO ENERGY CENTER

PIO PICO ENERGY CENTER, LLC

Docket No. 11-AFC-01

**DECLARATION OF ERIC SOLORIO  
IN SUPPORT OF STAFF'S RESPONSE  
TO CORRECTIONS CORPORATION OF  
AMERICA PETITION TO INTERVENE**

I, Eric Solorio, declare:

1. I am a Project Manager for the California Energy Commission (CEC) and I am assigned to manage the Energy Commission staff's review of the Pio Pico Energy Center LLC's, Application for Certification (11-AFC-1). I have personal knowledge of the matters stated below, and if called upon I could competently testify thereto.

2. I am submitting this declaration in support of staff's response to Correction Corporations of America's ("CCA") petition to intervene.

3. On March 26, 2012, legal counsel for CCA, Mr. Scott Williams, contacted me by phone and express CAA's concerns with staff's Preliminary Staff Assessment (PSA) for the proposed Pio Pico Energy Center (11-AFC-1). Mr. Williams stated CCA was concerned with specific issues in the technical areas of Hazardous Materials and Noise. After I spoke with Mr. Williams, I had several meeting with CEC technical staff to discuss CCA's concerns and we had a follow up conference call with Mr. Williams to understand the specific technical aspects of CCA's concerns.

4. After my staff and I spoke with Mr. Williams and further discussed his concerns internally, we concluded that CCA raised valid concerns which could be addressed by adding

two new Conditions of Certification (CoC) that staff could present in the Final Staff Assessment (FSA).

5. Mr. Williams told me that he had also spoken with counsel for the applicant making them aware of CCA's concerns.

6. I contacted David Jenkins with Pio Pico Energy Center LLC and asked him if he wanted to participate in a workshop to discuss and develop two new CoCs that staff planned to incorporate into the FSA, in order to address CCA's concerns. Mr. Jenkins declined the invitation to participate in a workshop to discuss and develop Condition(s) of Certification: HazMat-4 and Noise-4.

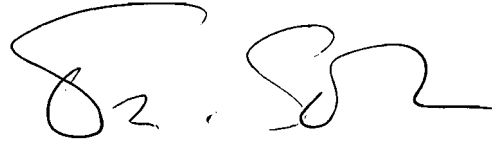
7. After publication of the FSA, on three separate occasions I inquired with the Maggie Fitzgerald, project manager for the applicant, and offered to hold a workshop to discuss and resolve any issues the applicant may have identified during their review of the FSA. Ms. Fitzgerald advised me that to the best of her knowledge the applicant did not plan to contest any of staff's conclusions or recommended Conditions of Certification in the FSA.

8. Prior to the deadline to intervene, Mr. Williams contacted me and stated that CCA was happy with staff's recommended CoCs: HazMat-4 and Noise-4 that addressed CCA's previously voiced concerns. Mr. Williams asked me if the applicant planned to contest HazMat-4 and Noise-4. I then advised Mr. Williams of the applicant's prior representations to me - that there were not any issues that would require adjudication by the Committee.

9. On June 26, 2012, the day after the deadline to intervene, the applicant called me and stated they would contest Condition of Certification Noise-4 in their opening testimony, to be filed later that day. I immediately called Mr. Williams to let him know the applicant would be contesting the CoC's that addressed CCA's concerns.

I declare under penalty of perjury, under the laws of the state of California, that the forgoing statements are true and correct and that this declaration was executed this 3<sup>rd</sup> day of July, 1012 in Sacramento, California.

Date: July 3, 2012

A handwritten signature in black ink, appearing to read 'E. Solorio', written over a horizontal line.

Eric Solorio  
Project Manager,  
California Energy Commission  
Siting, Transmission and Environmental  
Protection Division



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 PROJECT***

**Docket No. 11-AFC-01  
PROOF OF SERVICE**  
(Revised 6/25/2012)

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DECLARATION OF SERVICE

I, Pamela Fredieu, declare that on, July 5, 2012, I served and filed a copy of the attached California Energy Commission Staff's Response to Corrections Corporation of America's Petition to Intervene, dated July 5, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/piopico/index.html](http://www.energy.ca.gov/sitingcases/piopico/index.html).

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

*(Check all that Apply)*

For service to all other parties:

- xx Served electronically to all e-mail addresses on the Proof of Service list;
- xx Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses NOT marked "e-mail service preferred."

**AND**

For filing with the Docket Unit at the Energy Commission:

- xx by sending one electronic copy to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT  
Attn: Docket No. 11-AFC-01  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.ca.gov](mailto:docket@energy.ca.gov)

**OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:**

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission  
Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
[michael.levy@energy.ca.gov](mailto:michael.levy@energy.ca.gov)

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.

\_\_\_\_\_  
/s/  
**Pamela Fredieu, Legal Assistant**