

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 REBUTTAL TESTIMONY AND
PREHEARING CONFERENCE STATEMENT**

I. INTRODUCTION

Per the schedule established by the Committee's Notice of Prehearing Conference and Evidentiary Hearing ("Notice") dated June 15, 2012, Staff hereby submits its rebuttal testimony together with Staff's prehearing conference statement.

II. STAFF'S REBUTTAL TESTIMONY

At this time, Staff stands by its opening testimony filed June 29, 2012 (the Final Staff Assessment) and Staff intends to rebut the Applicant's opening testimony in the areas of Noise and Vibration and Land Use with Staff's live, expert witness testimony during the evidentiary hearing. As described further below, Staff also intends to call an expert witness from the County of San Diego's Planning Department to testify in support of Staff's recommended Condition of Certification, Noise-4, if a witness is available. Because Staff was recently informed about the Applicant's opposition to two (2) conditions, and because Staff is doing research and formulating a response, Staff cannot say with certainty at this time if Staff will agree with the Applicant or not. Therefore, we reserve the right to present live rebuttal testimony.

III. PREHEARING CONFERENCE STATEMENT

A. Complete and Uncontested Topic Areas, and Witness Testimony

Staff believes the topic areas identified in Table 1 are complete, uncontested and ready to proceed to evidentiary hearing. Table 1 identifies witnesses, related topics and corresponding exhibit(s).

TABLE 1
Staff's List of Exhibits, Witnesses and Testimony by Declaration

<i>Uncontested Topic Areas</i>	Witness(es) by Declaration	Exhibit Nos.
Air Quality	Tao Jiang; David Vidaver	200, 201, 202, 203
Alternatives	Eric Solorio; Wenjun Qian	200
Biological Resources	Ann Crisp; Heather Blair	200
Cultural Resources	Thomas Gates	200
Efficiency	Shahab Khoshmashrab	200
Executive Summary	Eric Solorio	200
Facility Design	Shahab Khoshmashrab	200
General Conditions	Dale Rundquist	200
Geological and Paleontological Resources	Casey Weaver	200
Hazardous Materials	Rick Tyler; Geoff Lesh	200
Introduction	Eric Solorio	200
Land Use	Candace Hill	200
Project Description	Eric Solorio	200
Public Health	Obed Odoemelum	200, 201
Reliability	Shahab Khoshmashrab	200
Socioeconomics	Lisa Worrall	200
Soil & Water Resources	Marylou Taylor; Paul Marshall	200, 204
Traffic & Transportation	Andrea Koch, Jim Adams	200, 206
Transmission Line Safety & Nuisance	Obed Odoemelum	200
Transmission System Engineering	Laiping Ng; Mark Hesters	200
Transmission System Engineering , Appendix A	Tao Jiang, Ph.D., P.E. (Air Quality), Ann Crisp and Heather Blair (Biological Resources), Thomas Gates (Cultural Resources), Casey Weaver (Geology and Paleontology), Rick Tyler (Hazardous Materials / Worker Safety), Candace Hill (Land Use), Eric Solorio (Project Description), Shahab Koshmashrab (Noise), Marylou Taylor and Paul Marshall (Soils and	200
Visual Resources	Melissa Mourkas	200
Waste Management	Ellie Townsend-Hough	200
Worker Safety and Fire Protection	Rick Tyler; Geoff Lesh	200

B. Incomplete Topics

All topics are complete and the disputed topic area of Noise & Vibration is ready to be adjudicated by the Committee after hearing supplemental live testimony given during the evidentiary hearing.

C. Contested Topic Areas that Require Adjudication

Based upon the Applicant's opening testimony, the Applicant is contesting Staff's conclusions and recommended Conditions of Certification in the area of Noise & Vibration. The Applicant's opening testimony includes related arguments regarding the topic area of Land Use. As such, Staff has also identified expert witnesses expected to testify to the facts, analysis and conclusions submitted in Staff's Exhibits 200 through 205 (see page 1 of Staff's Opening Testimony, Attachment "A", List of Exhibits and Expert Witnesses). Such expert witnesses will be available for cross-examination, if required.

Staff hereby submits that the topic areas of Land Use, Public Health and Traffic & Transportation are *uncontested* topic areas. However, Staff is offering expert witness testimony in these limited areas to supplement or clarify Staff's opening testimony. On page 1 of Staff's Opening Testimony, Attachment "A", List of Exhibits and Expert Witnesses, Staff has identified these expert witnesses who are available to testify during the evidentiary hearing if the Committee so orders. All of Staff's witnesses can be made available to testify in person.

D. Cross-Examination of Witnesses

Staff hereby reserves its right to cross-examine the Applicant's witnesses in the technical areas of Noise and Vibration and Land Use. Those witnesses subject to Staff's cross-examination are: Brian Mooney, Michael Theriault and Ron Reeves.

E. Scheduling Matters

Staff requests that the Committee order the parties to hold a workshop during the morning of July 23, 2012, prior to the evidentiary hearing. The purpose of the workshop would be to have the parties attempt to resolve the outstanding issues prior to the start of evidentiary hearings and would be narrowly focused on the topic area of Noise & Vibration.

Staff is in ongoing dialogue with the County of San Diego staff and Staff expects to be able to have the county staff participate in the workshop or the evidentiary hearing. Staff will inform the Committee when the County's participation is finalized.

IV. CONCLUSION

Based upon the presumed admission of Staff's evidence previously submitted, together with Staff's rebuttal evidence; and supplemental live testimony to be given at the evidentiary hearing, Staff is fully prepared to present its case at the evidentiary hearings in this matter as scheduled.

Date: July 5, 2012

Respectfully submitted,



Jeffery M. Ogata
Assistant Chief Counsel



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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**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 Rebuttal Testimony and Prehearing Conference Statement, 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.

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)

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- Served electronically to all e-mail addresses on the Proof of Service list;
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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
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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