



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

EVIDENTIARY HEARING ORDER

Parties wishing to present evidence or cross-examine witnesses at the evidentiary hearing scheduled as follows shall be prepared to proceed in accordance with this Order.

The EVIDENTIARY HEARING will be conducted on:

MONDAY, JULY 23, 2012

Beginning at 2:30 p.m.

Public Comment Period begins at 5:30 p.m.

**Chula Vista City Hall
Council Chambers
276 Fourth Avenue
Chula Vista, CA 91910**

Please see the Notice of Prehearing Conference and Evidentiary Hearing dated June 15, 2012 for complete details.

Disputed and Undisputed Topics

At the prehearing conference on July 9, 2012, Applicant, Staff and Intervenor Corrections Corporation of America (CCA) indicated that there existed a dispute among them in the topic area of Noise and Vibration. Applicant and CCA indicated that they were discussing the possibility of resolving the dispute. Any such resolution would be set forth in writing, filed with the Energy Commission's Docket Unit, and served on the parties. Staff would then review the proposed resolution and determine if it was acceptable to Staff. If the resolution is acceptable to Staff, then Applicant, Staff and CCA would consider all topics to be undisputed and propose to offer all testimony and evidence via declaration.

As to all other topics, Applicant, Staff and Intervenor CCA indicated that there were no disputed issues and that all testimony and evidence could be entered into the record via declaration.

Intervenor Rob Simpson stated in his Prehearing Conference Statement that “all” topics were in dispute as far as he is concerned. He may call himself as a direct witness and Robert Sarvey and Bill Powers as rebuttal witnesses. Mr. Simpson’s direct testimony pertains to Air Quality. Mr. Sarvey’s rebuttal testimony pertains to Air Quality, Environmental Justice and Water Resources. Mr. Powers’ rebuttal testimony pertains to Alternatives.

With respect to cross-examination, Mr. Simpson indicated that he wanted to cross-examine “all” witnesses. However, parties were required to specify the scope of cross-examination in their Prehearing Conference Statements, bearing in mind that cross-examination is limited to the scope of the direct testimony. Mr. Simpson’s Prehearing Conference Statement did not set forth the scope with respect to each topic. At the prehearing conference, Mr. Simpson was given the opportunity to tell the parties what the scope of cross-examination would be so that the parties would be able to provide appropriate witnesses. However, Mr. Simpson was largely unable to indicate what aspects of the filed testimony he sought to cross-examine, apparently because he had not reviewed it.

Accordingly, the Committee has **GRANTED** Mr. Simpson the opportunity to cross-examine a witness or witnesses from each party, said witnesses to be chosen by each party, **on the topics, and limited to the scope, set forth below**. To the extent that a party is not offering testimony on a topic within the scope set forth below, that party need not provide a witness for cross-examination.

INTERVENOR SIMPSON CROSS EXAMINATION TOPICS AND SCOPE

1. **Air Quality** (monitoring station, imported LNG, simultaneous operation with OMGP, low load and startup emissions, localized effects of GHG, use of ammonia instead of urea)
2. **Alternatives** (no project alternative, hybrid generation opportunities, combined heat and power, renewable distributed resources)
3. **Biological Resources** (nitrogen deposition impacts, extent of biological resources survey)
4. **Land Use** (nuisance ordinance conflicts)

Required Filings

Prior to the start of the evidentiary hearing on Monday, July 23, 2012, Applicant, Staff, and Intervenor shall present a CD or DVD of their evidence to the Hearing Adviser. **Testimony shall be limited to those witnesses listed in the Prehearing Conference Statements.**

Evidentiary Hearing Procedures

A Tentative Exhibit List will be sent separately to all parties electronically and will also be made available on the web page for this project, <http://www.energy.ca.gov/sitingcases/piopico/index.html>.

The purpose of the evidentiary hearing is to establish the factual record necessary for a decision on the project proposal. The record is developed by the presentation of sworn testimony and documentary evidence. Testimony on undisputed topics shall be submitted by sworn declarations filed under penalty of perjury and offered into evidence by stipulation of the parties.

The Applicant has the burden of presenting sufficient substantial evidence to support the findings and conclusions required for certification of the site and related facilities. (Cal. Code Regs., tit. 20, § 1748(e).)

The Committee may, at its discretion, curtail testimony or examination of a witness if it becomes cumulative or in any other way unproductive, in the interest of completing all topics areas at the evidentiary hearing efficiently.

Public Participation

The Energy Commission invites members of the public and other interested parties to participate on an informal basis in the proceeding by submitting written and oral comments. Public comments are considered by the Commissioners and are part of the record, but are not part of the formal evidentiary record.

Pursuant to the Power Plant Site Certification Regulations, California Code of Regulations, title 20, chapter 5, section 1711, any person wishing to provide public comment in written form in this proceeding, shall submit such materials to the Commission's Docket Unit, 1516 9th Street, MS 14, Sacramento, California 95814-5512. Comments must contain "**Pio Pico Energy Center, Docket No. 11-AFC-01**" in the caption or heading. In lieu of providing printed copies, members of the public may e-mail their comments to Jennifer Jennings, the Commission's Public Adviser, at the e-mail address provided below.

The Energy Commission's Public Adviser's Office is available to provide the public with an understanding of a proceeding and to make recommendations for meaningful participation. For assistance, contact Jennifer Jennings, the Public Adviser, at (916) 654-4489 or 800-822-6228 or e-mail: publicadviser@energy.ca.gov.

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz well in advance of the hearing at (916) 654-5146 or e-mail: lou.quiroz@energy.ca.gov.

Information

Questions of a legal or procedural nature should be directed to Raoul Renaud, the Hearing Adviser, at (916) 651-2020 or e-mail: raoul.renaud@energy.ca.gov.

Technical questions concerning the project should be addressed to Eric Solorio, Energy Commission Project Manager, at (916) 651-0966, or by e-mail at: eric.solorio@energy.ca.gov.

Media inquiries should be directed to the Office of Media and Public Communications at (916) 654-4989 or e-mail at: mediaoffice@energy.ca.gov.

Information concerning the status of the project, as well as notices and other relevant documents, may be viewed on the Energy Commission's Internet web page at: <http://www.energy.ca.gov/sitingcases/piopico/index.html>.

Dated: July 12, 2012, at Sacramento, California.

Original Signed By:

CARLA PETERMAN
Commissioner and Presiding Member
Pio Pico Energy Center AFC Committee

Original Signed By:

KAREN DOUGLAS
Commissioner and Associate Member
Pio Pico Energy Center AFC Committee



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**APPLICATION FOR CERTIFICATION
FOR THE *PIO PICO ENERGY CENTER PROJECT***

**Docket No. 11-AFC-01
PROOF OF SERVICE**
(Revised 7/10/2012)

APPLICANT

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INTERESTED AGENCIES

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INTERVENORS

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**ENERGY COMMISSION –
DECISIONMAKERS**

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**ENERGY COMMISSION – PUBLIC
ADVISER**

Jennifer Jennings
Public Adviser
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DECLARATION OF SERVICE

I, Maggie Read, declare that on, July 12, 2012, I served and filed a copy of the attached EVIDENTIARY HEARING ORDER, dated July 12, 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)

For service to all other parties:

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

- 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

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

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.

Original Signed By:

Maggie Read
Hearing Adviser's Office