

**CALIFORNIA ENERGY COMMISSION**1516 Ninth Street  
Sacramento, California 95814Main website: [www.energy.ca.gov](http://www.energy.ca.gov)

**NOTICE OF ADOPTION AND DOCKETING**  
OF THE  
**FINAL COMMISSION DECISION**  
ON THE  
**PIO PICO ENERGY CENTER PROJECT**  
DOCKET No. 11-AFC-01

California Energy Commission

**DOCKETED**  
**11-AFC-1**

TN # 67163

SEP 17 2012

**Please take notice** that the California Energy Commission adopted the attached Commission Adoption Order (Order) approving the Application for Certification of the Pio Pico Energy Center project at a business meeting held on September 12, 2012.

The Order was docketed on September 17, 2012. The Order provides that the Final Commission Decision is adopted, issued, effective, and final on that date for all purposes, including Public Resources Code sections 25530 (reconsideration), 25531 (judicial review), and 25901. (Cal. Code Regs., tit. 20, § 1720.4.)

As directed by paragraph 12 of the Order, the Hearing Office will compile the Presiding Member's Proposed Decision (PMPD) and Errata into a single document, the Final Commission Decision. The PMPD and Errata are presently available and, when published, the compiled document will be available free from the Energy Commission's website at: <http://www.energy.ca.gov/sitingcases/piopico/documents/index.html>.

Once published, a printed copy of the compiled document will also be available from the Publications Unit. Refer to Publication Number **CEC-800-2012-003-CMF**:

California Energy Commission  
Publications, MS-15  
1516 Ninth Street  
Sacramento, CA 95814-5504

Please call the Publications Unit at (916) 654-5200 with any questions.

News media should direct inquiries to Adam Gottlieb, Acting Assistant Director, at (916) 654-5027, or by e-mail at: [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).



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**

**Docket No. 11-AFC-01**

**Order No. 12-0912-04**

## COMMISSION ADOPTION ORDER

This Commission Order adopts the Commission Decision on the Pio Pico Energy Center (PPEC) Application for Certification. The Commission Decision consists of the Presiding Member's Proposed Decision (PMPD) docketed on August 6, 2012, and the Committee Errata. The Commission Decision is based upon the evidentiary record of these proceedings and considers the comments received at the September 12, 2012 business meeting. The Commission Decision contains a summary of the proceedings, the evidence presented, and the rationale for the findings reached and conditions imposed.

This **ORDER** adopts by reference the text, Conditions of Certification, Compliance Verifications, and Appendices contained in the Commission Decision. It also adopts specific requirements contained in the Commission Decision which will ensure that the proposed facility will be designed, sited, and operated in a manner to protect environmental quality, to assure public health and safety, and to operate in a safe and reliable manner.

## FINDINGS

The Commission hereby adopts the following findings in addition to those contained in the Commission Decision:

1. The Pio Pico Energy Center project will provide a degree of economic benefits and electricity reliability to the local area.
2. The Conditions of Certification contained in the Commission Decision, if implemented by the project owner, ensure that the project will be designed, sited, and operated in conformity with applicable local, regional, state, and federal laws, ordinances, regulations, and standards, including applicable public health and safety standards, and air and water quality standards.

3. Implementation of the Conditions of Certification contained in the Commission Decision will ensure protection of environmental quality and assure reasonably safe and reliable operation of the facility. The Conditions of Certification also assure that the project will neither result in, nor contribute substantially to, any significant direct, indirect, or cumulative adverse environmental impacts.
4. Existing governmental land use restrictions are sufficient to adequately control population density in the area surrounding the facility and may be reasonably expected to ensure public health and safety.
5. The project is subject to Fish and Game Code section 711.4 and the project owner must therefore pay a nine hundred ninety-two dollar and fifty cents (\$992.50) fee to the California Department of Fish and Game.
6. Construction and operation of the project, as mitigated, will not create any significant adverse environmental impacts. Therefore, no feasible alternatives to the project, as described in the record, would reduce or eliminate any significant environmental impacts of the mitigated project.
7. The evidence does not establish the existence of any environmentally superior alternative site.
8. The record establishes that an environmental justice screening analysis was conducted and that the project, as mitigated, will not have a disproportionate impact on low-income or minority populations.
9. The Decision contains a discussion of the public benefits of the project as required by Public Resources Code section 25523(h).
10. The Decision contains measures to ensure that the planned, temporary, or unexpected closure of the project will occur in conformance with applicable laws, ordinances, regulations, and standards.
11. The proceedings leading to this Decision have been conducted in conformity with the applicable provisions of Commission regulations governing the consideration of an Application for Certification and thereby meet the requirements of Public Resources Code sections 21000 et seq. and 25500 et seq.

## **ORDER**

Therefore, the Commission **ORDERS** the following:

1. The PMPD docketed on August 6, 2012, and the Committee Errata are hereby adopted as the Commission Decision and incorporated by reference into this Order.

2. The Application for Certification of the Pio Pico Energy Center project as described in the Commission Decision is hereby approved and a certificate to construct and operate the project is hereby **GRANTED**.
3. The approval of the Application for Certification is subject to the timely performance of the Conditions of Certification and Compliance Verifications enumerated in the accompanying text and Appendices. The Conditions and Compliance Verifications are integrated with this Decision and are not severable therefrom. While the project owner may delegate the performance of a condition or verification, the duty to ensure adequate performance of a condition or verification may not be delegated.
4. This Order is adopted, issued, effective, and final on the date this Order is docketed.
5. Reconsideration of this Decision is governed by Public Resources Code, section 25530.
6. Judicial review of this Decision is governed by Public Resources Code, section 25531.
7. The Commission hereby adopts the Conditions of Certification, Compliance Verifications, and associated dispute resolution procedures as part of this Decision in order to implement the compliance monitoring program required by Public Resources Code section 25532. All conditions in this Decision take effect immediately upon adoption and apply to all construction and site preparation activities including, but not limited to, ground disturbance, site preparation, and permanent structure construction.
8. This Decision licenses the project owner to commence construction on the project within five years of the date this Order is docketed. Subject to the provisions of California Code of Regulations, Title 20, section 1720.3, this license expires by operation of law when the project's start-of-construction deadline passes with no construction.
9. The project owner shall provide the Executive Director a check in the amount of nine hundred and ninety-two dollars and fifty cents (\$992.50) payable to the California Department of Fish and Game.
10. The Executive Director of the Commission shall transmit a Notice of Decision and appropriate accompanying documents, including the Department of Fish and Game fee, as provided by Public Resources Code section 25537, California Code of Regulations, Title 20, section 1768, and Fish and Game Code section 711.4.

11. The Hearing Office shall incorporate the PMPD and Errata into a single document. Publication of that compilation shall not affect the adoption, effective, issuance, or final dates of this Order established in paragraph 4, above.
12. The Application for Certification docket file for this proceeding shall be closed effective 30 days after this Order is final, unless a timely petition is filed pursuant to Public Resources Code section 25530.

#### **CERTIFICATION**

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on September 12, 2012.

AYE: Weisenmiller, Douglas, Peterman, McAllister

NAY: None

ABSENT: None

ABSTAIN: None

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

*Original Signed By:* \_\_\_\_\_

Harriet Kallemeyn

Secretariat

California Energy Commission



**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 8/16/2012)**

**APPLICANT**

Gary Chandler, President  
Pio Pico Energy Center  
P.O. Box 95592  
South Jordan, UT 84095  
[grchandler@apexpowergroup.com](mailto:grchandler@apexpowergroup.com)

David Jenkins, Project Manager  
Pio Pico Energy Center, LLC  
1293 E. Jessup Way  
Mooresville, IN 46158  
[djenkins@apexpowergroup.com](mailto:djenkins@apexpowergroup.com)

**APPLICANT'S CONSULTANTS**

Maggie Fitzgerald  
Sierra Research  
1801 J Street  
Sacramento, CA 95811  
[MFitzgerald@sierraresearch.com](mailto:MFitzgerald@sierraresearch.com)

**COUNSEL FOR APPLICANT**

John A. McKinsey  
Melissa A. Foster  
Stoel Rives, LLP  
500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
[jamckinsey@stoel.com](mailto:jamckinsey@stoel.com)  
[mafoster@stoel.com](mailto:mafoster@stoel.com)

**INTERESTED AGENCIES**

California ISO  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

**INTERVENORS**

Rob Simpson  
[rob@redwoodrob.com](mailto:rob@redwoodrob.com)

Gretel Smith, Esq.  
Attorney for Rob Simpson  
P.O. Box 152994  
San Diego, CA 92195  
[gretel.smith79@gmail.com](mailto:gretel.smith79@gmail.com)

**INTERVENORS (con't.)**

Corrections Corporation of America  
G. Scott Williams, Esq.  
c/o Seltzer Caplan McMahon Vitek  
750 B Street, Suite 2100  
San Diego, CA 92101  
[swilliams@scmv.com](mailto:swilliams@scmv.com)

**ENERGY COMMISSION –  
DECISIONMAKERS**

CARLA PETERMAN  
Commissioner and Presiding Member  
[carla.peterman@energy.ca.gov](mailto:carla.peterman@energy.ca.gov)

KAREN DOUGLAS  
Commissioner and Associate Member  
[karen.douglas@energy.ca.gov](mailto:karen.douglas@energy.ca.gov)

Raoul Renaud  
Hearing Adviser  
[raoul.renaud@energy.ca.gov](mailto:raoul.renaud@energy.ca.gov)

Eileen Allen  
Commissioners' Technical  
Advisor for Facility Siting  
[eileen.allen@energy.ca.gov](mailto:eileen.allen@energy.ca.gov)

Jim Bartridge  
Presiding Member's Advisor  
[jim.bartridge@energy.ca.gov](mailto:jim.bartridge@energy.ca.gov)

Galen Lemei  
Associate Member's Advisor  
[galen.lemei@energy.ca.gov](mailto:galen.lemei@energy.ca.gov)

Jennifer Nelson  
Associate Member's Advisor  
[Jennifer.nelson@energy.ca.gov](mailto:Jennifer.nelson@energy.ca.gov)

**ENERGY COMMISSION –STAFF**

Eric Solorio  
Siting Project Manager  
[eric.solorio@energy.ca.gov](mailto:eric.solorio@energy.ca.gov)

Kevin W. Bell  
Staff Counsel  
[kevin.w.bell@energy.ca.gov](mailto:kevin.w.bell@energy.ca.gov)

**ENERGY COMMISSION –  
PUBLIC ADVISER**

Jennifer Jennings  
Public Adviser  
[publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov)

DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on, September 17, 2012, I served and filed a copy of the attached NOTICE OF ADOPTION and DOCKETING of the COMMISSION FINAL DECISION on the PIO PICO ENERGY CENTER PROJECT and COMMISSION ADOPTION ORDER. 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:**

- 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 marked *"hard copy required"* or where no e-mail address is provided.

**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](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.

***Original Signed By:***

\_\_\_\_\_  
RoseMary Avalos  
Hearing Advisers Office