

Docket Optical System - Fwd: RE: Avenal Schedule - OBJECTION TO HEARING TIME - VIOLATION OF CIVIL RIGHTS AND ENVIRONMENTAL JUSTICE

From: Elena Miller
To: Docket Optical System
Date: 6/10/2009 12:37 PM
Subject: Fwd: RE: Avenal Schedule - OBJECTION TO HEARING TIME - VIOLATION OF CIVIL RIGHTS AND ENVIRONMENTAL JUSTICE

Please docket the following E-mails to Docket No. 08-AFC-1. Thank you.

Elena M. Miller

Public Adviser
 California Energy Commission
 (916) 654-4489
publicadviser@energy.state.ca.us

DOCKET	
08-AFC-1	
DATE	June 10 2009
RECD.	June 10 2009

>>> Elena Miller 6/10/2009 12:31 PM >>>
 Good afternoon Bradley.

Thank you for your reply yesterday. In response to your concerns, I will have your comments and my responses docketed so that all parties to this proceeding and Energy Commission staff will be afforded the opportunity to consider them as well.

July 7 Evidentiary Hearing:

Though I understand your frustrations, I'll offer some of my own insight as Public Adviser for you to consider. The Evidentiary Hearing on July 7th will be conducted much like a trial in a court of law. The parties will need to convene early in the day on the 7th to work through necessary procedural matters before moving on through the substantive issues. Testimony and witnesses from each party will be presented and all parties will be able to cross-examine one another. There is no way of knowing how long the hearing will go, but it may go into the evening and potentially continue on the 8th if necessary. Generally, the Hearing Officer (our equivalent to an Administrative Law Judge) and the Committee will take public comment at the end of the hearing or the latter part of the day. If you have not attended an Energy Commission event before, you should also be familiar with the practice of distributing blue cards for people in the audience to fill-in for purpose of making public comment. They are in English and Spanish. I offer this to you only because I have seen organizations such as yours expect for the hearing to be conducted as if it were a local city council meeting.

Attendance at the hearings and workshops is certainly encouraged for members of the public to express their opinions about the case, but as I stated to you yesterday, written comments are also a very effective way to communicate points of view. I'd be happy to discuss this with you further if you have questions about how to submit written comments.

June 23rd Final Staff Assessment Workshop:

I am told by the Commission's Siting, Transmission and Environmental Protection Division staff that the Notice for the June 23rd workshop will be docketed today. The California Code of Regulations, Title 20, Chapter 5 (Site Certification), Section 1710 (b) requires that, ". . . notice of the initial public hearing on a notice or application shall be mailed or otherwise delivered fourteen (14) days prior to the first such hearing to the applicant . . ." The first hearing in every siting case is the Informational Hearing and Site Visit. Whereas, if you continue to

read Section 1710 (b) it goes on to state, "Except for continued hearings, notices shall, to the extent possible, be mailed at least fourteen (14) days in advance, and in no case less than ten (10) days in advance."

Please don't hesitate to contact me if you have questions or concerns with respect to participation in this proceeding.

Elena M. Miller

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>>> "Bradley Angel" <bradley@greenaction.org> 6/9/2009 5:27 PM >>>

Hello Elena,

Thank you for this information, however, this is a formal objection to the Evidentiary Hearing on the proposed Avenal power plant being scheduled for 10 a.m. on a work day. It is apparent the California Energy Commission could care less about public involvement. Also, we were not aware of the June 23rd workshop (and still don't know time or place) – and putting a notice out for that on June 10, less than two weeks in advance, is inadequate.

The CEC is required to involve the public in decisions and afford the public meaningful opportunities for public participation.

Scheduling a very important hearing for 10 am on a work day violates your responsibility to involve the public, and also would violate California Government Code 11135 which provides protection to low income and people of color residents from actions by state agencies that would have a discriminatory impact on them. Please be advised that the CEC's handling of this proposed power plant, including but not limited to the scheduling of a public hearing at 10 a.m on July 7th, does in fact constitute discriminatory action in violation of Government Code 11135. We will be submitting a more formal objection in the coming days.

On behalf of our constituents in Kettleman City and Avenal, we demand the CEC implement a legitimate public hearing process that allows for full community involvement, and stop the attempt to railroad this polluting power plant through.

Bradley Angel, Executive Director, Greenaction for Health and Environmental Justice

From: Elena Miller [mailto:EMiller@energy.state.ca.us]
Sent: Tuesday, June 09, 2009 4:44 PM
To: bradley@greenaction.org
Subject: Avenal Schedule
Mr. Angel,

Thank you for your E-mail on June 3, 2009. The Evidentiary Hearing for this case is going to take place in Avenal at the Superior Court on July 7th. The Notice for the hearing has not been posted yet, once it is you will be able to verify the time of day for the hearing. I am told that it will begin at 10 a.m., but I would verify the time once the notice is posted to the project webpage on the Energy Commission's website. (www.energy.ca.gov/avenal). If you are not signed up for this project's electronic List Server, I encourage you to do so as soon as possible so that you will begin to receive electronic notice of all events and document filings for this case.

If you are not aware, there will also be a workshop held to discuss the Final Staff Assessment (FSA) on June

23rd. The notice for this workshop should be posted tomorrow and it will include the specifics for place and time of day. Additionally, there will be a Prehearing Conference scheduled for June 30th at the Energy Commission in Sacramento to prepare all parties in this case for the Evidentiary Hearing.

There will be public comment periods at the FSA workshop on the 23rd and the Evidentiary Hearing on July 7th. I encourage Greenaction to attend these events in the community, but it is helpful to also submit written comments to the Energy Commission's dockets unit at to further articulate your concerns.

My office has communicated a few times since March of this year with representatives of Greenaction. So that you are aware, I've offered to assist by speaking to your members about the siting process and opportunities to participate, as well as offered to collaborate on getting information out to your members.

Please do not hesitate to contact me if you have any further questions or concerns.

Sincerely,

Elena M. Miller

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