

From: "Marc D. Joseph" <MDJoseph@adamsbroadwell.com>
To: Paul Kramer <Pkramer@energy.state.ca.us>, "Gloria D. Smith" <gsmith@adam...>
Date: 6/10/2010 5:04 PM
Subject: RE: Committee Questions re Petition to intervene of Robert Sarvey--Marsh Landing

Mr. Kramer -

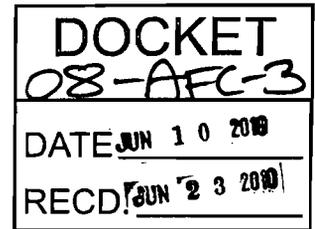
CURE will not be able to submit a formal response to the Petition. However, we agree with Staff that Mr. Sarvey has not shown good cause.

CURE generally believes any person should be able to become an intervenor in CEC proceedings, and the Commission should accommodate and encourage participation. However, in this case, Mr. Sarvey has the burden of showing good cause for his late intervention. We have not seen any such showing, particularly because Mr. Sarvey acknowledges that he was aware of the proceeding, submitted comments on the PDOC and, most importantly, has been an active participant in the CPUC proceeding considering the Power Purchase Agreement with PG&E for this project. In that proceeding, when he attempted to raise environmental issues, several parties pointed out that those issues were within the CEC's jurisdiction. The CPUC's Scoping Memo then declined to entertain the issues. We were frankly surprised that he did not then immediately seek to intervene in this proceeding and instead waited many months.

Thank you for your consideration of this brief note.

Marc Joseph

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-----Original Message-----

From: Paul Kramer [mailto:Pkramer@energy.state.ca.us]
Sent: Friday, June 04, 2010 4:01 PM
To: Gloria D. Smith; Marc D. Joseph; Sarveybob@aol.com; e-recipient@caiso.com; Jim Boyd; Karen Douglas; Kerry Willis; Mike Monasmith; Public Adviser's Office; jon.sacks@mirant.com; steve.nickerson@mirant.com; Anne_Connell@URSCorp.com; Dale_shileikis@URSCorp.com; lcottle@winston.com; tmorita@winston.com
Subject: Committee Questions re Petition to intervene of Robert Sarvey--Marsh Landing

Mr. Sarvey (Marsh Landing parties, see below for your deadline):

In order to rule on your Petition, the Committee requires the following additional information.

1. You say that you only became aware of the June 1 Intervention deadline on June 4. By what mechanism did you learn of the deadline?
2. You say that you were expecting to see an FSA. What led you to that assumption? The April 2010 staff report is labeled a "Staff Assessment," not a "Preliminary Staff Assessment."
3. Your statement of interest in the case speaks about air quality issues. Are there any other topic areas

in which you are interested in participating and what is the nature of your interest in those topics? Please be specific.

4. You have not cited any authority for the hardship waiver you request. Under what authority and circumstances do you believe that the Committee may approve a waiver?

I require your responses on or before 4 pm on Tuesday, June 8. Send them via email to all of the parties as well.

Marsh Landing parties: any responses you wish to make to Mr. Sarvey's petition must be filed and received by me by 5 pm on Friday, June 11.

Paul Kramer
Hearing Officer

>>> <Sarveybob@aol.com> 6/4/2010 3:18 PM >>>

Attached is the Petition to Intervene of Robert Sarvey in 08-AFC-3 the Marsh Landing Generating Station.