



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](http://WWW.ENERGY.CA.GOV)

**DOCKET**  
**08-AFC-3**

DATE MAY 26 2010  
RECD. MAY 26 2010

Application for Certification  
for the *MIRANT MARSH LANDING*  
*GENERATING STATION PROJECT*

Docket No. 08-AFC-3

**NOTICE OF PREHEARING CONFERENCE**

**AND**

**EVIDENTIARY HEARING**

**PLEASE TAKE NOTICE** that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **MARSH LANDING GENERATING STATION PROJECT (MLGS)** project has scheduled a Prehearing Conference and an Evidentiary Hearing as follows:

***The Prehearing Conference and Evidentiary Hearing will be conducted on:***

***THURSDAY, July 1, 2010***  
***Beginning at 2:00 p.m.***

**California Energy Commission**  
**Hearing Room A**  
**1516 Ninth Street**  
**Sacramento, CA 95814**

**Teleconference Option**

Parties and the Public may attend the Evidentiary Hearing in person at the above location or by telephone and/or by computer via our "WebEx" web conferencing system. For details on how to participate by WebEx, please see the "Participation through WebEx" directions attached to this Notice.

**PLEASE TAKE NOTICE** that the Committee has established the following filing schedule:

<b>ITEM</b>	<b>DATE</b>
Last day to file Petitions to Intervene	Monday, June 1, 2010
Staff files Revised Staff Assessment	Wednesday, June 9, 2010
Applicant's testimony filed	Wednesday, June 16, 2010
Staff and other Parties' testimony filed	Monday, June 21, 2010
Proposed findings filed	Monday, June 21, 2010
Prehearing Conference Statements filed	Monday, June 28, 2010
Prehearing Conference/Evidentiary Hearing	Thursday, July 1, 2010

### **Purpose of Prehearing Conference**

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an evidentiary hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the certification process. (Cal. Code Regs., tit. 20, § 1718.5.)

At the Prehearing Conference, all parties (Staff, Applicant, and Intervenors) shall present their respective positions regarding: the substantive topic areas ready for evidentiary hearing; those topics that require further analysis, including the nature of, and time frame for, any such analysis; the topic areas that have been resolved; and the topic areas that are disputed and require adjudication. The parties shall also identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

Provided that some or all of the topic areas are found ready to proceed to hearing, the Evidentiary Hearing will commence immediately following the Prehearing Conference.

### **Prehearing Conference Statements**

To facilitate the process, each party shall serve and file a **Prehearing Conference Statement**. The statements shall be received by the Hearing Officer and other parties on the Proof of Service list and the Commission's Docket Unit, 1516 9th Street, MS-4, Sacramento, California 95814-5512, by **4 p.m. on June 28, 2010**. The parties shall also submit Word versions of their statements, including the Exhibit List, to the Hearing Officer via e-mail.

Each statement shall specify:

1. The topic areas that are complete and ready to proceed to evidentiary hearing;
2. The topic areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefor;
3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
4. The identity of each witness sponsored by each party (**note**: witnesses must have professional expertise in the scope of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness;
5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination;
6. An exhibit list identifying exhibits and declarations that each party intends to offer into evidence, **provided in the format attached to this notice**. The hearing Office will provide the parties with a Word version of the Exhibit List template;
7. Proposals for briefing deadlines, vacation schedules, and other scheduling matters;
8. For all topics, the parties shall review the Proposed Conditions of Certification listed in the Revised Staff Assessment (RSA) for enforceability, comprehension, and consistency with the evidence, and submit any proposed modifications.
9. The party's comments, if any, on the Committee's intention to use informal hearing procedures, described below.

### **Format for Presenting Evidence**

Each document shall be numbered and identified on an **Exhibit List**.

- Applicant's exhibits shall be numbered consecutively as Exhibits 1 through 299.
- Staff's exhibits shall be numbered consecutively as Exhibits 300 through 399.
- Intervenor CURE's exhibits shall be numbered consecutively as Exhibits 400 through 499.

***Printed or electronic (i.e., email or compact disk) copies of the Exhibits shall be provided to the Committee and other parties no later than 4 p.m. on the dates set forth in the filing schedule table, above. If sent by email, a compact disk or paper copy shall also be placed in the first class or overnight mail by the deadline. In addition, a printed copy of all exhibits shall be provided to the Hearing Officer no later than June 28, 2010.***

### **Notice of Committee's Intention to Use Informal Hearing Procedures**

Pursuant to Government Code Section 11445.10 et seq. and section 1217 of the Commission's regulations, the Committee may conduct all or portions of the Evidentiary Hearings in an informal manner in which, for example but not by way of limitation, a panel of witnesses sponsored by a single party or by multiple parties testify at one time, with an exchange of questions and responses between the witnesses and counsel for the various parties substituting for formal direct and cross-examination. Any objections to the taking of testimony in an informal manner shall be filed on or before the deadline for filing Prehearing Conference Statements (**4 p.m. on June 28, 2010**). The Parties are encouraged to comment on the appropriate format for informal hearings and identify the topics for which informal hearings are appropriate, in their Prehearing Conference Statements, above.

### **Notice of Committees' Intention to Take Official Notice of Documents**

Pursuant to section 1213 of the Commission's regulations, the Committee intends to take Official Notice of the report issued by the Commission's Siting Committee entitled:

***COMMITTEE GUIDANCE ON FULFILLING CALIFORNIA ENVIRONMENTAL QUALITY ACT RESPONSIBILITIES FOR GREENHOUSE GAS IMPACTS IN POWER PLANT SITING APPLICATIONS.***

The report was issued in March 2009 and is found on the Commission website at: <http://www.energy.ca.gov/2009publications/CEC-700-2009-004/CEC-700-2009-004.PDF>

### **Petitions to Intervene to Become a Formal Party**

The Energy Commission's Decision on the MLGS will be based on the official evidentiary record developed at the Evidentiary Hearing. Only formal parties (Applicant, Staff, and Intervenors) may present evidence and cross-examine witnesses at the Evidentiary Hearing.

Anyone with an appropriate interest in the MLGS may file a Petition to Intervene and become a formal party. At the Evidentiary Hearing, a formal party may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with Committee orders,

procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties. There are presently no Intervenor in this case.

The deadline to file a Petition to Intervene in this case is **5 p.m. on Monday, June 1, 2010**. Petitions filed after that date and time extensions for new Intervenor to review case materials will be granted only upon a showing of extraordinary good cause. Intervenor will take the case as they find it at the time intervention is granted. For example, if the deadline for filing opening testimony has passed, the newly approved Intervenor will not be allowed to file opening testimony. Persons interested in obtaining intervenor status are therefore encouraged to file their petitions as soon as possible.

### **How to Intervene**

The Energy Commission's Public Adviser's office will assist any person or organization interested in preparing a Petition to Intervene. For assistance in this process, contact the Public Adviser's office at (916) 654-4489 or (800) 822-6228 or e-mail: **[publicadviser@energy.state.ca.us]**.

### **Agency and Public Participation**

It is not necessary to be an Intervenor to participate in the public process. Anyone desiring information on how to participate may contact the Public Adviser's office as indicated above.

Local, state, and federal governmental agencies may participate at the Prehearing Conference and Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20, § 1714.5.) Elected officials and members of the public may present public comments at these events and/or submit written comments to the Energy Commission's Docket Unit. Please include "Docket No. 07-AFC-9" on any written comments. **Comments made or submitted after the close of the Evidentiary Hearings will not be considered. Persons wishing to make comments after the close of the Evidentiary Hearings shall withhold those comments until the release of the Presiding Member's Proposed Decision and submit those comments in reference to the PMPD during the 30-day PMPD comment period.**

### **Energy Commission Information**

Questions of a legal or procedural nature should be directed to Paul Kramer, the Hearing Officer, at (916) 654-5103 or e-mail: **[pkramer@energy.state.ca.us]**.

Technical questions concerning the Project should be addressed to Mike Monasmi, the Staff Project Manager, at (916) 654-4894, or by e-mail: **[mmonasmi@energy.state.ca.us]**.

Media inquiries should be directed to the Energy Commission's Office of Media and Communications at (916) 654-4989 or e-mail: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

Information concerning the status of the project, as well as notices and other relevant documents, including the AFC, may be viewed on the Energy Commission's Internet web page at: [\[www.energy.ca.gov/sitingcases/marshlanding\]](http://www.energy.ca.gov/sitingcases/marshlanding). You may also subscribe to receive email notification of all notices at [\[www.energy.ca.gov/listservers\]](http://www.energy.ca.gov/listservers).

Dated May 26, 2010, at Sacramento, California.

*Original signed by:* \_\_\_\_\_  
JAMES D. BOYD  
Vice Chair and Presiding Member  
Marsh Landing AFC Committee

*Original signed by:* \_\_\_\_\_  
KAREN DOUGLAS  
Chairman and Associate Member  
Marsh Landing AFC Committee

*Mailed to Lists: POS; 7297, 7298, 7299, 7300*

PARTICIPATION IN THE STATUS CONFERENCE THROUGH WEBEX  
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

1. Meeting number: 928 231 796      meeting password: marsh@2eh

2. COMPUTER LOG-ON WITH A DIRECT PHONE NUMBER:

- Please go to <https://energy.webex.com> and enter the above meeting number.
- When prompted, enter your information and the above meeting password.

After you login, a prompt will appear on-screen for you to provide **your** phone number. In the **Number box**, type your area code and phone number and click OK. **You will receive a call back on your phone for the audio of the meeting.** International callers can use the "Country/Region" button to help make their connection.

3. COMPUTER LOG-ON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:

- Please go to <https://energy.webex.com> and enter the above meeting number.
- When prompted, enter your information and the above meeting password.

- *After you login, a prompt will ask for your phone number. Click "CANCEL."*

- Instead call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your screen after you login.

\*\*\*\*\*

4. TELEPHONE ONLY (NO COMPUTER ACCESS):

- Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the above meeting number.

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [<http://support.webex.com/support/system-requirements.html>].

\*Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.



Docket Number: 08-AFC-3

Date: \_\_\_\_\_

Project Name: Application for Certification for the Mirant Marsh Landing Generating Station Project

### **SAMPLE TENTATIVE EXHIBIT LIST**

***NOTE:*** *The format of the samples provided below is equally applicable to all parties. However, given the likely differences in the documentary evidence submitted by the parties, the samples illustrate how to address specific types of evidence that might be unique to each party.*

Exhibit	Brief Description	Stipulation	Offered	Admitted	Refused	CEC Use Only
<b>Applicant's Exhibits</b>						
<b>1</b>	<p><b>ABC</b> Power Plant Project Application for Certification (AFC); dated [month, day, year], and docketed on [month, day, year].</p> <ul style="list-style-type: none"> <li>(a) Executive Summary</li> <li>(b) Project Description</li> <li>(c) Air Quality</li> <li>(d) Biological Resources</li> <li>(e) Cultural Resources</li> <li>(f) Hazardous Materials Management</li> <li>(g) Land Use</li> <li>(h) Noise and Vibration</li> <li>(i) Public Health</li> <li>(j) Socioeconomics</li> <li>(k) Soil and Water Resources</li> <li>(l) Traffic and Transportation</li> <li>(m) Transmission Line Safety and Nuisance</li> <li>(n) Visual Resources</li> <li>(o) Waste Management</li> </ul>					



	<p><b>Applicant's Exhibits Continued</b></p> <p>(p) Worker Safety and Fire Protection  (q) Facility Design  (r) Geology and Paleontology  (s) Power Plant Efficiency  (t) Power Plant Reliability  (u) Transmission System Engineering  (v) Alternatives</p>					
2	<p><b>ABC</b>, LLC's Objection to California Energy Commission Staff Data Requests (Set 1); dated [month, day, year], and docketed on [month, day, year].</p> <p>(a) Objections to Data Request 16  (b) Objections to Data Request 53  (c) Objections to Data Requests 66, 67, and 68</p>					
3	<p><b>ABC</b>, LLC's, Response to California Energy Commission Data Requests 1-74; [month, day, year], and docketed on [month, day, year].</p> <p>(a) Responses 1-6; Exhibit 2-1  (b) Responses 7-10; Exhibits 7-1, 7-2, 7-3, 10-1  (c) Responses 11-20; Exhibits 17-1, 17-2  (d) Response 21  (e) Responses 22-23; Exhibits 22-1, 23-1  (f) Responses 24-53; Exhibits 25-1, 35-1, 38-1, 48-1, 48-2  (g) Responses 54-58; Exhibit 58-1  (h) Responses 59-68; Exhibit 61-1  (i) Responses 69-74</p>					
4	<p>Declaration of John Doe regarding Project Description; dated [month, day, year] and docketed. (month, day, year).</p>					





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**APPLICATION FOR CERTIFICATION  
FOR THE MARSH LANDING  
GENERATING STATION**

**Docket No. 08-AFC-3**

**PROOF OF SERVICE  
(Revised 5/26/2010)**

**APPLICANT**

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**INTERESTED AGENCIES**

California ISO  
*E-mail Preferred*  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

**INTERVENORS**

California Unions for Reliable Energy  
("CURE")  
Gloria D. Smith & Marc D. Joseph  
Adams Broadwell Joseph & Cardozo  
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[gsmith@adamsbroadwell.com](mailto:gsmith@adamsbroadwell.com)  
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**ENERGY COMMISSION**

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DECLARATION OF SERVICE

I, Maggie Read, declare that on May 26, 2010, I mailed hard copies of the attached Notice of Prehearing Conference and Evidentiary Hearing and revised Proof of Service list, dated May 26, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [<http://www.energy.ca.gov/sitingcases/marshlanding/index.html>].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

*(Check all that Apply)*

For service to all other parties:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery;

by delivering on this date, for mailing with the United States 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 "email preferred."

**AND**

For filing with the Energy Commission:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

**OR**

depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 08-AFC-3

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury 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