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October 12, 2009

DOCKET 08-AFC-9
DATE <u>OCT 12 2009</u>
RECD. <u>OCT 12 2009</u>

File No. 039610-0003

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-9
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

Re: City of Palmdale Hybrid Power Plant Project: Docket No. 08-AFC-9

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, Sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Response to October 5, 2009 Committee Order Requesting Further Comment Regarding Schedule.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the attached proof of service list.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

cc: 08-AFC-9 Proof of Service List (w/encl., via e-mail and U.S. Mail)
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STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 08-AFC-9
)	
APPLICATION FOR CERTIFICATION,)	RESPONSE TO OCTOBER 5, 2009
FOR THE PALMDALE HYBRID POWER)	COMMITTEE ORDER REQUESTING
PROJECT BY THE CITY OF PALMDALE)	FURTHER COMMENT REGARDING
)	SCHEDULE
)	

On October 5, 2009, the Committee issued an “Order Requesting Further Comment Regarding Schedule” for whether “it would be more efficient and effective for Staff to prepare a single Staff Assessment rather than the Preliminary and Final Assessments currently contemplated by the schedule.”

On behalf of the City of Palmdale (“Applicant”), we greatly appreciate the Committee’s efforts to expedite the project schedule, which has been significantly delayed. The Revised Committee Schedule (July 23, 2009) required the PSA to be issued “6-8 weeks” after the Applicant filed information requested by Staff – which both sides have agreed occurred no later than August 20, 2009. This equates to the PSA coming out no later than October 15, 2009. Notably, this would still be more than a year since the project AFC was deemed data adequate (October 8, 2008).

The Applicant has already conceded several key points on the PSA. First, the “6-8 week” period was much longer than the Applicant believed was warranted. Now it appears that the Applicant will need to accept an even longer delay of the PSA – until the middle of November. Applicant appreciates Staff’s burdens given mandated furlough days and the high volume of pending Applications for Certification. However, at the last Committee hearing, Staff explicitly stated that the “6-8 week period” accounted for these factors.¹ Schedule delays have come at a great expense to the City of Palmdale and threaten the City’s ability to obtain project financing.

The PSA is a valuable step because it clarifies Staff’s assessment of the project and explicitly details any outstanding issues. The Applicant is unwilling to lose this value by eliminating the PSA – particularly after expeditiously meeting its obligations under the Revised Committee Schedule – unless it gains an expedited schedule.

¹ (See Applicant’s Petition for Committee Scheduling Conference, Sept. 23, 2009; Transcript of July 9, 2009 Committee Conference, page 111, lines 9-17; *Id.*, page 112, lines 22-25.)

The Applicant strongly supports a single Staff Assessment² with a firm deadline of December 15, 2009. Since Staff has already agreed to issue the PSA by November 15, 2009, the FSA would be scheduled for issuance on January 15, 2010 (60 days). Any later date for the single Staff Assessment after December 15 would cause it to slip into 2010 because of the holiday season, essentially eliminating any scheduling benefit achieved from combining the PSA and FSA. A December 15 deadline also provides Staff with a full 60 days after the PSA was supposed to be issued (October 15, 2009).

With over 90 days between now and December 15, Staff should have ample opportunity to convert the PSA (which should be nearly complete) into a single Staff Assessment.

DATED: October 12, 2009

Respectfully submitted,

/S/ MICHAEL J. CARROLL

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant

² The Committee requested comments on whether “it would be more efficient to wait until a single Staff Assessment (SA) can be prepared in lieu of a PSA and Final Staff Assessment (FSA).” (Emphasis added.) Based on this language, it appears clear that the Staff Assessment would take the place of both the PSA and FSA and thus would be the functional equivalent of both documents. Staff’s analysis would be complete with the publication of the Staff Assessment. The Applicant’s comments are based on this assumption.

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:)	Docket No. 08-AFC-9
)	
Application for Certification, for the CITY OF PALMDALE HYBRID POWER PLANT PROJECT)	PROOF OF SERVICE
)	(Revised October 1, 2009)
)	
_____)	

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

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PALMDALE HYBRID POWER PROJECT

CEC Docket No. 08-AFC-09

DECLARATION OF SERVICE

I, Paul Kihm, declare that on October 12, 2009, I served and filed copies of the attached:

RESPONSE TO OCTOBER 5, 2009 COMMITTEE ORDER REQUESTING FURTHER COMMENT REGARDING SCHEDULE

to all parties identified on the Proof of Service List above in the following manner:

California Energy Commission Docket Unit

- Transmission via electronic mail and by depositing the original with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 08-AFC-09

1516 Ninth Street, MS-4

Sacramento, California 95814-5512

docket@energy.state.ca.us

For Service to All Other Parties

- Transmission via electronic mail to all email addresses on the Proof of Service list; and
- by depositing one paper copy with the United States Postal Service via first-class mail at Costa Mesa, California, with postage fees thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses **NOT** marked "email preferred."

I further declare that transmission via electronic mail and U.S. Mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 12, 2009, at Costa Mesa, California.



Paul Kihm