



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-9**

DATE	JAN 31 2011
RECD.	FEB 01 2011

APPLICATION FOR CERTIFICATION FOR THE  
PALMDALE HYBRID POWER PROJECT

DOCKET No. 08-AFC-9

***SECOND REVISED***  
**NOTICE OF PREHEARING CONFERENCE AND EVIDENTIARY HEARING  
AND  
ORDER GRANTING INTERVENOR'S MOTION TO CONTINUE HEARING DATES  
AND OTHER DEADLINES**

**PLEASE TAKE NOTICE** that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **PALMDALE HYBRID POWER PROJECT** has **rescheduled** the Prehearing Conference and Evidentiary Hearings as shown below.

All other Orders and directives contained in the Revised Notice of Prehearing Conference and Evidentiary Hearings posted January 18, 2011, remain in effect and are binding on the parties. Refer to the web page:  
[\[http://www.energy.ca.gov/sitingcases/palmdale/notices/index.html\]](http://www.energy.ca.gov/sitingcases/palmdale/notices/index.html).

**The PREHEARING CONFERENCE has been *rescheduled* to:**

**MONDAY, FEBRUARY 14, 2011**  
Beginning at 10:00 a.m.  
California Energy Commission  
Hearing Room A  
1516 Ninth Street  
Sacramento, CA 95814

**The EVIDENTIARY HEARING has been *rescheduled* to:**

**WEDNESDAY, MARCH 2, 2011**  
Beginning at 10:00 a.m.  
Larry Chimbole Cultural Center  
38350 Sierra Highway  
Palmdale, CA 93550  
(Map Attached)

**TELECONFERENCE OPTION:** *You may participate in the Prehearing Conference and Evidentiary Hearing by telephone and/or by computer via “WebEx” conferencing system. Please see the “Participation through WebEx” section attached to this Notice.*

**The Committee will hear Public Comment at the end of the Prehearing Conference and at 2:00 p.m. on the day of the Evidentiary Hearing.**

## ORDER

On January 25, 2011, Intervenor, Center for Biological Diversity (CBD), filed a *Motion to Continue Hearing Dates and Other Deadlines* (Motion).

The Motion claims that “the FSA [Final Staff Assessment] was issued on December 22, 2010; however, the document was not actually made available to Intervenors or other members of the public until January 5, 2011. The Revised Schedule required Opening Testimony from Intervenors on January 19, 2011, only two weeks after the FSA was made available. As [CBD] noted in the Opening Testimony that was filed, there was insufficient time to review the FSA before Opening Testimony was due. The Prehearing Conference is scheduled for January 31, 2011, and the Evidentiary Hearing is now scheduled for February 3, 2011.”

The record indicates that the public had access to the FSA which was posted on the Commission’s website and served on all mailing lists on December 22, 2010. The schedule gave the public and potential Intervenors four weeks to review the FSA prior to filing testimony. By their own admission, CBD has been involved in this case since at least July of 2010. CBD is a seasoned Intervenor with the California Energy Commission and chose to put off petitioning to intervene until the last day before the cut-off. The date of the Order granting their Petition to Intervene has no relevance to the date the FSA became available. CBD was on notice that the FSA was available on December 22, 2010. We find the four weeks provided CBD was adequate time to review the FSA.

CBD also argues they “provided detailed comments to the Committee for this project in response to the Final Determination of Compliance (“FDOC”) on July 22, 2010, (Docket Log: TN57740) regarding the generation and use of emission reduction credits (ERCs) from the paving of existing unpaved public roads to offset the project’s particulate emissions. Staff did not even begin to address these issues until the Rebuttal Testimony filed on January 21, 2011, *six months after* these issues had been raised by [CBD]. Because Staff has introduced entirely new information regarding the paving proposal at this late date, [CBD] and other parties should be provided with additional time to review this material (along with the other matters in the FSA) and provide testimony before any Evidentiary Hearing takes place regarding these issues.

We agree with CBD that where Staff introduces new evidence for the first time on rebuttal, the Intervenors should be allowed to respond to Staff’s new testimony.

Therefore, the Committee **GRANTS** the Petition and modifies the schedule as follows:

<u>EVENT</u>	<u>DATE</u>
Intervenors File Response to Staff Testimony filed 1/21/11	2/4/11
All Parties File Prehearing Conference Statements	2/9/11
Prehearing Conference	2/14/11
Evidentiary Hearing	3/2/11
All Parties File Opening Briefs	3/11/11
All Parties File Reply Briefs	3/18/11
Presiding Members Proposed Decision (PMPD)	4/20/11
Committee Hearing on PMPD	5/13/11
Close of public comment period on PMPD	5/20/11
Final Adoption Hearing	To Be Determined

### **Purpose of Prehearing Conferences**

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 Conferences, all parties (Staff, Applicant, and Intervenors) shall present their respective positions regarding: 1) the substantive topic areas ready for Evidentiary Hearing; 2) those topics that require further analysis, including the nature of, and time frame for, any such analysis; 3) the topic areas that have been resolved; and 4) the topic areas that are disputed and require adjudication, and topic areas where a party seeks an overriding finding of public necessity and convenience. (Pub. Res. Code, § 25525.) The parties shall also identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

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 "**Palmdale Hybrid Power Project, Docket No.08-AFC-9**" on any written comments.

## **ORDER re: Prehearing Conference Statements**

To facilitate the process, each party shall serve and file a **PREHEARING CONFERENCE STATEMENT**. Each party's Prehearing Conference Statement shall be provided to and received by the other parties and the Commission's Docket Unit, 1516 9th Street, MS-4, Sacramento, California 95814-5512, **no later than 3:00 p.m., Wednesday, February 9, 2011**. The parties shall e-mail their statements to the Hearing Officer as well as to the Docket Unit and the parties as indicated on the Proof-of-Service list. The parties shall also submit a **Word** version of their statements to the Hearing Officer via e-mail.

### ***FAILURE TO FILE A TIMELY PREHEARING CONFERENCE STATEMENT MAY PRECLUDE A PARTY FROM PARTICIPATING AT THIS HEARING.***

Each statement shall set forth under a separate heading:

- a) The topic areas that are complete and ready to proceed to Evidentiary Hearing;
- b) The topic areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor;
- c) The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
- d) The identity of each witness sponsored by each party (***note***: witnesses must have professional expertise in the discipline 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; the time required to present direct testimony by each witness; and whether the party seeks to have the witness testify in person or telephonically;
- e) Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), and the time desired for each such cross-examination;
- f) A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply (as explained in the following section on **Format for Presenting Evidence**);
- g) Topic areas for which the Applicant will seek a commission override due to public necessity and convenience pursuant to Public Resource Code, section 25525;
- h) Proposals for briefing deadlines, impact of vacation schedules, and other scheduling matters; and
- i) For all topics, any proposed modifications to the proposed Conditions of Certification listed in the Final Staff Assessment (FSA) based upon enforceability, ease of comprehension, and consistency with the evidence.

## Format for Presenting Evidence

The parties shall provide written testimonial and documentary evidence in two formats.

1. Each document shall be numbered and identified on an **Exhibit List**. (*Use sample format attached to this Notice.*)
  - Applicant's exhibits shall be numbered consecutively as **Exhibits 1 through 299**;
  - Staff's exhibits shall be numbered consecutively as **Exhibits 300 through 399**;
  - Center for Biological Diversity's exhibits shall be numbered consecutively as **Exhibits 400 through 499**;
  - Desert Citizens Against Pollution's exhibits shall be numbered consecutively as **Exhibits 500 through 599**.

***Printed copies of the Exhibits shall be provided to the Committee and other parties no later than 3 p.m. on the dates set forth in the filing schedule table, above. Failure to timely exchange Exhibits may result in exclusion of evidence.***

2. To facilitate the Committee's efficient organization and review of the Project, all parties must submit the Exhibit List in numerical order and separately provide a list of all exhibits **sorted by topic areas** listed in the same order as the Final Staff Assessment. These exhibit lists sorted by topic areas shall include all opening and rebuttal testimony filed by the party and shall be provided to the Hearing Officer **no later than 3:00 p.m., Friday, February 11 , 2011.**

## Official Notice

Pursuant to Commission's regulations [20 Cal. Code Regs., § 1213], 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>

## **Public Adviser and Public Participation**

The Energy Commission Public Adviser is available to assist the public in participating in the application review process. For information on how to participate, please contact the Public Adviser's Office at (916) 654-4489 or 1-800-822-6228 or e-mail: **[[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)]**.

If you have a disability and need assistance to participate in any scheduled event, contact Lourdes Quiroz no less than five days prior to the hearing at (916) 654-5146 or e-mail: **[[lquiroz@energy.state.ca.us](mailto:lquiroz@energy.state.ca.us)]**.

## **Information**

Questions of a legal or procedural nature should be directed to Kenneth Celli, the Hearing Officer, at (916) 651-8893 or e-mail: **[[kcelli@energy.state.ca.us](mailto:kcelli@energy.state.ca.us)]**.

Technical questions concerning the project should be addressed to Felicia Miller, the Staff Project Manager, at (916) 654-4640, or e-mail: **[[fmiller@energy.state.ca.us](mailto:fmiller@energy.state.ca.us)]**.

Media inquiries should be directed to the Office of Media and Public 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 may be viewed on the Energy Commission's Internet web page at: **[[www.energy.ca.gov/sitingcases/palmdale](http://www.energy.ca.gov/sitingcases/palmdale)]**. You may also subscribe to receive e-mail notification of all notices at **[[www.energy.ca.gov/listservers](http://www.energy.ca.gov/listservers)]**.

Dated: January 31, 2011, at Sacramento, California.



JEFFREY D. BYRON  
Commissioner and Presiding Member  
Palmdale AFC Committee

PARTICIPATION IN THE PRE-HEARING CONFERENCE AND EVIDENTIARY HEARINGS THROUGH WEBEX  
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

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

- Please go to <https://energy.webex.com> and enter the MEETING NUMBER unique to the specific hearing date:
  - 2/14/11 – Prehearing Conference meeting number: **924 953 021**
  - 3/2/11 – Evidentiary Hearing meeting number: **928 861 449**
- When prompted, enter your information and the MEETING PASSWORD: **palmdale#1**

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 portion of the meeting.** International callers can use the "Country/Region" button to help make their connection.

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

- Please go to <https://energy.webex.com> and enter the unique meeting number and the meeting password (above).
- *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 computer screen after you login.*

3. TELEPHONE ONLY (NO COMPUTER ACCESS):

- *Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the meeting number unique to the specific hearing date:*
  - 2/14/11 – Prehearing Conference meeting number: **924 953 021**
  - 3/2/11 – Evidentiary Hearing meeting number: **928 861 449**

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.

**SAMPLE EXHIBIT LIST**

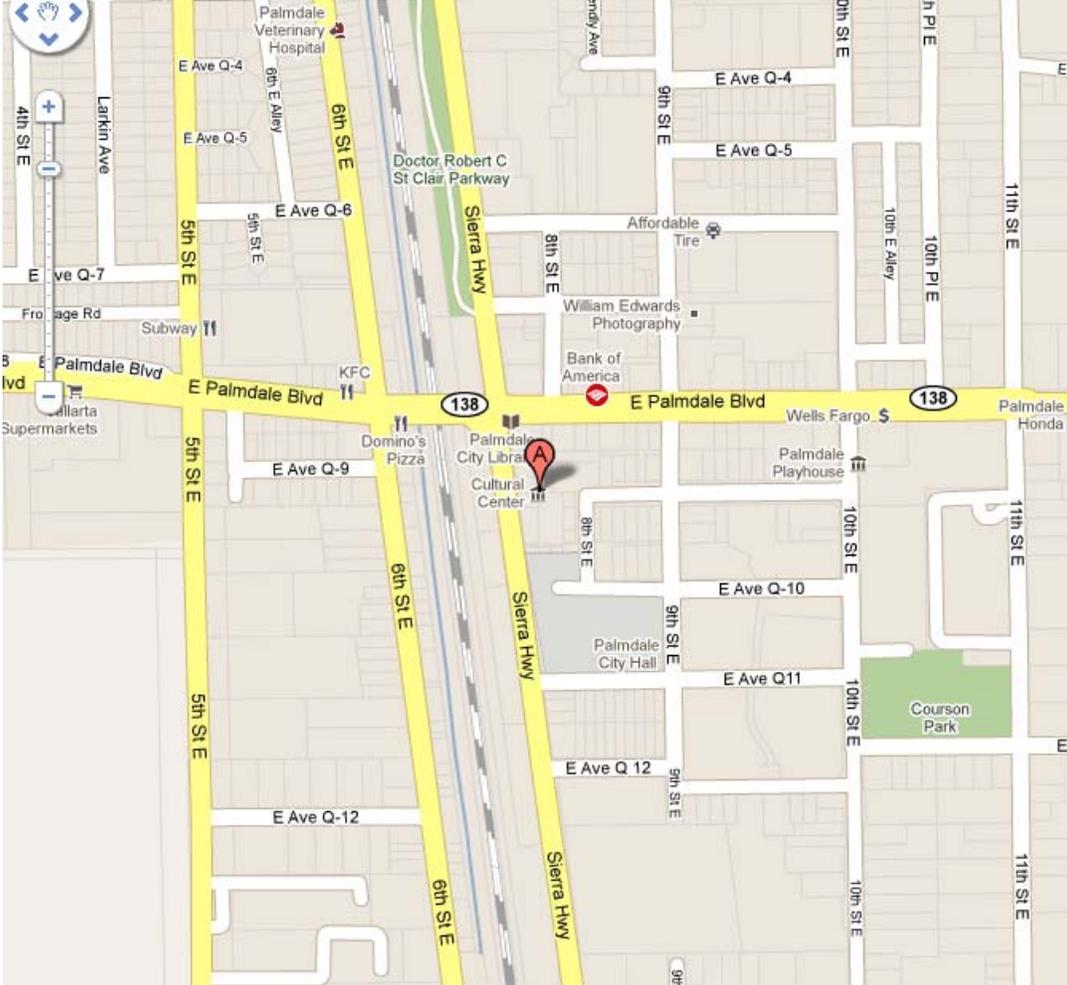
**NOTE:** *The format of the sample provided below is equally applicable to all parties. However, given the likely differences in the documentary evidence submitted by the parties, the samples illustrate how to address specific types of evidence that might be unique to each party.*

**Applicant’s Exhibits 1-299**

Exhibit	Brief Description	Offered	Admitted
1	<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) Project Description</li> <li>(b) Electric Transmission</li> <li>(c) Air Quality</li> <li>(d) Biological Resources</li> <li>(e) Cultural Resources</li> <li>(f) Geologic Hazards and Resources</li> <li>(g) Hazardous Materials Handling</li> </ul> <p>...</p>		
2	<p>Applicant’s Declarations and Testimony; dated and docketed on December 20, 2010.</p> <ul style="list-style-type: none"> <li>(a) Project Description</li> <li>(b) Electric Transmission</li> <li>(c) Air Quality</li> <li>(d) Biological Resources</li> </ul> <p>...</p>		

**SUBMIT ALL EXHIBIT LISTS IN WORD FORMAT.**

**Larry Chimbole Cultural Center  
38350 Sierra Highway  
Palmdale, CA 93550**





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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)**

**APPLICATION FOR CERTIFICATION  
For the *PALMDALE HYBRID  
POWER PROJECT***

**Docket No. 08-AFC-9**

**PROOF OF SERVICE**

*(Revised 1/14/2011)*

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**ENERGY COMMISSION**

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DECLARATION OF SERVICE

I, Maggie Read, declare that on, February 1, 2011, I served and filed copies of the attached Second Revised - Notice of Prehearing Conference and Evidentiary Hearing and Order Granting Intervenor's Motion to Continue Hearing Dates and Other Deadlines, dated January 31, 2011. 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/palmdale/index.html]. The document has 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-9

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