

Robert Sarvey
501 W. Grantline Rd.
Tracy, Ca. 95376

DOCKET	
09-AFC-4	
DATE	July 07 2011
RECD.	July 07 2011

State of California
State Energy Resources Conservation and Development Commission

In the Matter of:)	Docket # 09-AFC-04
)	
Oakley Generating Station)	Request for Reconsideration
)	of Dockets Office
)	Denial of Petition of Reconsideration
_____)	for the Oakley Generating station.

Introduction

On June 20 2011 I received an email from the Dockets Office rejecting the timely filing of my June 17, 2011 Petition for Reconsideration of the Commissions Final Decision for the Oakley Project 09-AFC-04. The reason the letter gave is that I failed to notice dockets and the chief counsel's office which the letter suggests violates Title 20 Cal.Code.Reg, section 1209 (d) and 1720(a).

Rejection of an intervenors Petition for Reconsideration at the CEC staff level is an unprecedented event which is not covered under the regulations. Pursuant to Section 1720 or whatever procedural vehicle the Commission deems appropriate Intervenor Sarvey hereby appeals to the full Commission the Dockets Office rejection of my June 17th Petition for Reconsideration of the Final Commission Decision on the Oakley Generating Station.¹ I hereby request that the full Commission reverse the Dockets Office rejection of my Petition for Reconsideration of the Commissions Final Decision on the Oakley Generating Station.

¹ There appears to be no code section that addresses the rejection of a petition for reconsideration at the CEC Staff level which is an unprecedented action at the Commission.

Argument

On June 17th 2011 I attempted to send the Petition for Reconsideration for the Oakley Project several times between 4:25 and 4:38 PM pasting the service list into the email and also typing in the Dockets Office email which is not part of the service list. I received error messages the first three times. In my fourth attempt which was successful I mistakenly failed to type in the Dockets Office email. My failure to include docket on the email was remedied several moments after being notified by docket of my error on June 20, 2011. I also included a copy of the petition in the US Mail addressed to the Dockets Office.

I correctly notified all of the parties to the proceeding by the June 17th 5:00PM deadline so no party was disadvantaged despite my error of not including the Dockets Office address in the email. In fact before I was even notified of my error by the Dockets Office Scott Galati the applicant's attorney had filed at 1:28 PM Monday June 20th, "CCGS Opposition to Intervenor's Sarvey's Petition for Reconsideration." In less than one business day the applicant responded so it is clear there could be no prejudice to the applicant as he was timely served.

I also included in the original June 17th email Kevin Bell who is a member of the Chief Counsels Office and all other CEC Staff members on the service list and the Commissioners so there could be no prejudice to the Commission from my inadvertent error.

Because no harm was caused by my error good cause exists for the Commission to grant my petition for reconsideration of the docket office rejection of my filing. Good cause exists since my rights as a party to the proceeding to submit a Petition for Reconsideration would be denied by an obvious clerical error. I fully participated in the Oakley proceeding and even the applicant has agreed that I had a positive effect on the decision. As stated above no party was prejudiced by my clerical error.

Conclusion

I fully participated in the Oakley proceeding and provided contributions that even the applicant acknowledges.² As an Intervenor in the Energy Commission Process for over 10 years I have never seen dockets reject any filing. It's inappropriate to deny a Petition for Reconsideration at the staff level for a clerical error that resulted in no harm to any party. Intervenor Sarvey respectfully requests that the full Commission reverse the dockets office rejection of my Request for Reconsideration of the Oakley Project and hear the petition as soon a practical.

² "I wanted to thank intervener Sarvey. I actually think that we have a better project due to his efforts and his input into this process so we certainly appreciate his participation." Business Meeting 5-18-11 Page 106 (Lamberg)

DECLARATION OF SERVICE

I, Robert Sarvey, declare that on July 7, 2011, I served and filed copies of the attached (09-AFC-4)) Petition for Reconsideration of Dockets Office Denial of Petition of Reconsideration for the Oakley Generating station.

. 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: [\[http://www.energy.ca.gov/sitingcases/contracosta/index.html\]](http://www.energy.ca.gov/sitingcases/contracosta/index.html). The document has been sent to 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 or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above 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);

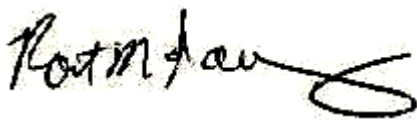
OR

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

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 09-AFC-4
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct



Robert Sarvey 7-17-11

Greg.Lamberg@Radback.com
ddavy@ch2m.com
sgalati@gb-llp.com
mmills@gb-llp.com
e-recipient@caiso.com
mvang@water.ca.gov
Sarveybob@aol.com
jboyd@energy.state.ca.us
smichael@energy.state.ca.us
cpeterma@energy.state.ca.us
jbartrid@energy.state.ca.us
Kmcdonne@energy.state.ca.us
kvaccaro@energy.state.ca.us
pmartine@energy.state.ca.us
kwbell@energy.state.ca.us
publicadviser@energy.state.ca.us



**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**

**APPLICATION FOR CERTIFICATION
FOR THE *OAKLEY GENERATING STATION***

**Docket No. 09-AFC-4
PROOF OF SERVICE
(Revised 4/5/2011)**

APPLICANT

Greg Lamberg, Sr. Vice President
RADBACK ENERGY
145 Town & Country Drive, #107
Danville, CA 94526
Greg.Lamberg@Radback.com

APPLICANT'S CONSULTANTS

Douglas Davy
CH2M HILL, Inc.
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833
ddavy@ch2m.com

COUNSEL FOR APPLICANT

Scott Galati
Marie Mills
Galati & Blek, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com
mmills@gb-llp.com

INTERESTED AGENCIES

California ISO
E-mail Preferred
e-recipient@caiso.com

Maifiny Vang
CA Dept. of Water Resources
State Water Project Power and
Risk Office
3310 El Camino Avenue,
RM. LL90
Sacramento, CA 95821
mvang@water.ca.gov

INTERVENORS

Robert Sarvey
501 W. Grantline Road
Tracy, CA 95376
Sarveybob@aol.com

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

Sarah Michael
Adviser to Vice Chair Boyd
smichael@energy.state.ca.us

CARLA PETERMAN
Commissioner and Associate Member
cpeterma@energy.state.ca.us

Jim Bartridge
Adviser to Commissioner Peterman
jbartrid@energy.state.ca.us

***Kathleen McDonnell**
Executive Assistant to
Commissioner Peterman
Kmcdonne@energy.state.ca.us

Kourtney Vaccaro
Hearing Officer
kvaccaro@energy.state.ca.us

Pierre Martinez
Siting Project Manager
pmartine@energy.state.ca.us

Kevin W. Bell
Staff Counsel
kwbell@energy.state.ca.us

Jennifer Jennings
Public Adviser
E-mail preferred
publicadviser@energy.state.ca.us

*indicates change

DECLARATION OF SERVICE

I, _____, declare that on _____, I served and filed copies of the attached _____, dated _____
_____. 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/oakley/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. 09-AFC-4
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
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.
