On June 28, 2010, and July 15, 2010, the Committee conducted hearings on Applicant Abengoa Solar, LLC’s Application for Certification of a nominal 250 megawatt solar generating facility in unincorporated San Bernardino County, California. The Committee designated July 15 as the date for the parties to submit evidence and argument on the topic of Worker Safety and Fire Protection. Based on the prehearing filings and arguments of the Applicant, Commission staff, and the County of San Bernardino, three issues require adjudication under the topic of Worker Safety and Fire Protection: (1) whether the Abengoa Mojave Solar Project (AMS) will have a significant environmental impact on local fire protection services, (2) if so, whether the impacts are direct and cumulative or merely cumulative, and (3) the appropriate mitigation for any such impacts. These issues involve Staff-proposed Condition of Certification WORKER SAFETY-6.

Prior to and during the July 15, 2010 hearing, the Applicant and Staff submitted substantial testimony and evidence on the issues. In pre-hearing briefings and during the hearing, the Applicant asserted that the project will have no significant environmental impacts relating to fire services, objected to the timeliness of Staff’s supplemental testimony and evidence, and reserved the Applicant’s right to submit additional direct and rebuttal testimony if necessary. The Applicant asserted that it would not exercise the reservation of rights if Staff or the Committee agreed to a Condition of Certification modeled after Conditions of Certification WORKER SAFETY -6 and -7 in the Colusa Generating Station Commission Final Decision (06-AFC-09) issued in April 2008 (hereinafter, “Colusa Conditions”). These conditions included measures requiring the applicant to reach agreement with the fire department regarding funding resources to mitigate potential project-related impacts. If no agreement could be reached, the applicant was required to fund an independent consultant’s study to evaluate potential impacts and recommend funding to mitigate any identified significant impacts, which the Commission would use, along with all available information, to determine the proper funding amount.
At the close of July 15 hearing, the Committee advised the parties that it required time to consider the issues requiring adjudication and Staff’s proposed Condition of Certification WORKER SAFETY-6. The Committee has reviewed the related evidence admitted into the evidentiary record and considered possible application of mitigation measures modeled on, but not identical to, Colusa Conditions. Based thereon, the Committee makes the following findings:

1. The Committee does not require further evidence to determine whether (1) the AMS project will have a significant environmental impact on local fire protection services, (2) if so, whether the impacts are direct and cumulative or merely cumulative, and (3) that AMS’s payment of impact fees would be appropriate mitigation for any such impacts.

2. The Committee has determined that the evidentiary record and legal authority that includes the California Environmental Quality Act and implementing decisional law support the Committee’s imposition of mitigation that includes direction to the Applicant, Staff, and the fire department to reach agreement or in the absence of such agreement by a specified time, provide for an evaluation by an independent third party funded by the Applicant to determine the level of any required mitigation.

THEREFORE, the Committee orders the record closed on the topic of Worker Safety and Fire Protection.

The Committee will accept from the parties properly filed and served proposed Condition of Certification language, legal argument regarding mitigation measures modeled on the Colusa Conditions, or both, up to 5:00 p.m. on Wednesday, July 28, 2010.

Dated July 23, 2010, at Sacramento, California.

Original signed by: ____________________________
ANTHONY EGGERT
Commissioner and Presiding Member
Abengoa Mojave AFC Committee

Original signed by: ____________________________
JAMES D. BOYD
Vice Chair and Associate Member
Abengoa Mojave AFC Committee
APPLICATION FOR CERTIFICATION
FOR THE ABENGOA MOJAVE
SOLAR POWER PLANT

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Docket No. 09-AFC-5
PROOF OF SERVICE
(Revised 7/21/2010)

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*indicates change
DECLARATION OF SERVICE

I, Maggie Read, declare that on July 23, 2010, I served and filed copies of the attached Committee Order on Sufficiency of Evidence Regarding the Topic of Worker Safety and Fire Protection, dated June 23, 2010. The original documents, filed with the Docket Unit, are 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/abengoa/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:

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:

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

_____ by personal delivery;

____ x 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:

____ x 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-5
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.

Original signed by: __________
Maggie Read
Hearing Adviser’s Office