



455 Capitol Mall Suite 350
Sacramento CA 95814
Tel· 916.441.6575
Fax· 916.441.6553

DOCKET

09-AFC-8

DATE AUG 11 2010

RECD. AUG 11 2010

August 11, 2010

California Energy Commission
Dockets Unit
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: **GENESIS SOLAR, LLC SUPPLEMENTAL REPLY TO THE CURE'S REPLY
BRIEF CONCERNING TRANSMISSION
GENESIS SOLAR ENERGY PROJECT
DOCKET NO. (09-AFC-8)**

Enclosed for filing with the California Energy Commission is the original of **GENESIS
SOLAR, LLC SUPPLEMENTAL REPLY TO THE CURE'S REPLY BRIEF
CONCERNING TRANSMISSION**, for the Genesis Solar Energy Project (09-AFC-8).

Sincerely,

A handwritten signature in cursive script that reads "Ashley Garner".

Ashley Garner

Scott A. Galati
Robert Gladden
GALATI BLEK, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
(916) 441-6575

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
Genesis Solar Energy Project

DOCKET NO. 09-AFC-8

**GENESIS SOLAR, LLC
SUPPLEMENTAL REPLY TO THE
CURE'S REPLY BRIEF
CONCERNING TRANSMISSION**

CURE has violated the Committee Order by including in its Reply Brief a new issue relating to Transmission System Impacts that were not included in its Opening Brief on Day 3 topics, nor raised by any other Parties' Opening Briefs on Day 3 Topics. Notwithstanding that blatant sandbagging tactic, which this counsel must now expect in all future proceedings where CURE participates, Genesis has prepared this response under severe time constraints in order to comply with the Committee's Orders on the timing of briefs.

CURE alleges that the Committee cannot approve the GSEP because it believes that it has not analyzed the "whole of the action". CURE alleges that the upgrades identified in the Phase II Transmission Cluster Study are part of the whole of the action and therefore the Commission must do an environmental review of such activities. CURE outlines the case law regarding its contentions and Genesis does not disagree with the concepts CURE alleges are supported by those cases. Although due to the time constraints we have not been able to verify them.

CURE contends that the downstream upgrades are part of the GSEP or are foreseeable in the same manner that a second phase of development is foreseeable or in the same manner as expansion of a sewer plant was necessary to serve a planned subdivision. CURE fails to distinguish one fundamental fact which has been articulated by Genesis counsel at several recent status conferences. That fact is that the upgrades CURE claims are a result of the GSEP are not. If the GSEP is not constructed, those upgrades that CURE claims are part of the "whole of the action" will be constructed anyway. If the GSEP is constructed those upgrades will be also be constructed. This is

a byproduct of the fact that the interconnection process has now moved from an individual analysis to a cluster analysis with a substantial revision in the CallSO tariff. It is undisputable that any upgrade that is constructed will be subject to full permitting and environmental review by the California Public Utilities Commission (CPUC) upon application by Southern California Edison (SCE). CURE claims this distinction is without merit because the GSEP needs the upgrades to interconnect. That is untrue. If the GSEP were analyzed separately, such an analysis would clearly show substantially less, or maybe no newly planned upgrades. What is required to interconnect the GSEP is pure speculation and for the reasons articulated in earlier briefs, CEQA prohibits speculative analyses.

The Committee should not be swayed by CURE's last minute attempt to further instill confusion into the process. Genesis counsel has raised this exact issue earlier at appearances before this Committee and CURE sat on its hands again rather than engage in an open debate before the Committee to seek resolution. CURE does not seek resolution and we urge the Committee to disregard CURE's tactics.

Dated: August 11, 2010

/original signed/

Scott A Galati
Counsel to Genesis Solar, LLC



**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
GENESIS SOLAR ENERGY PROJECT**

Docket No. 09-AFC-8

**PROOF OF SERVICE
(Revised 8/5/10)**

APPLICANT

Ryan O'Keefe, Vice President
Genesis Solar LLC
700 Universe Boulevard
Juno Beach, Florida 33408
e-mail service preferred
Ryan.okeefe@nexteraenergy.com

Scott Busa/Project Director
Meg Russel/Project Manager
Duane McCloud/Lead Engineer
NextEra Energy
700 Universe Boulevard
Juno Beach, FL 33408
Scott.Busa@nexteraenergy.com
Meg.Russell@nexteraenergy.com
Duane.mccloud@nexteraenergy.com
e-mail service preferred
Matt Handel/Vice President
Matt.Handel@nexteraenergy.com
e-mail service preferred
Kenny Stein,
Environmental Services Manager
Kenneth.Stein@nexteraenergy.com

Mike Pappalardo
Permitting Manager
3368 Videra Drive
Eugene, OR 97405
mike.pappalardo@nexteraenergy.com

Kerry Hattevik/Director
West Region Regulatory Affairs
829 Arlington Boulevard
El Cerrito, CA 94530
Kerry.Hattevik@nexteraenergy.com

APPLICANT'S CONSULTANTS

Tricia Bernhardt/Project Manager
Tetra Tech, EC
143 Union Boulevard, Ste 1010
Lakewood, CO 80228
Tricia.bernhardt@tteci.com

James Kimura, Project Engineer
Worley Parsons
2330 East Bidwell Street, Ste.150
Folsom, CA 95630
James.Kimura@WorleyParsons.com

COUNSEL FOR APPLICANT

Scott Galati, Esq.
*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-recipient@caiso.com
Allison Shaffer, Project Manager
Bureau of Land Management
Palm Springs South Coast
Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
Allison_Shaffer@blm.gov

INTERVENORS

California Unions for Reliable
Energy (CURE)
c/o: Tanya A. Gulesserian,
Rachael E. Koss,
Marc D. Joseph
Adams Broadwell Joesph
& Cardoza
601 Gateway Boulevard,
Ste 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
rkoss@adamsbroadwell.com

Tom Budlong
3216 Mandeville Cyn Rd.
Los Angeles, CA 90049-1016
tombudlong@roadrunner.com

Mr. Larry Silver
California Environmental
Law Project
Counsel to Mr. Budlong
e-mail preferred
larrysilver@celproject.net

Californians for Renewable
Energy, Inc. (CARE)
Michael E. Boyd, President
5439 Soquel Drive
Soquel, CA 95073-2659
michaelboyd@sbcglobal.net

Lisa T. Belenky, Senior Attorney
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org

Ileene Anderson
Public Lands Desert Director
Center for Biological Diversity
PMB 447, 8033 Sunset Boulevard
Los Angeles, CA 90046
ianderson@biologicaldiversity.org

OTHER

Alfredo Figueroa
424 North Carlton
Blythe, CA 92225
lacunadeaztlan@aol.com

ENERGY COMMISSION

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

ROBERT WEISENMILLER
Commissioner and Associate Member
rweisenm@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

Mike Monasmith
Siting Project Manager
mmonasmi@energy.state.ca.us

Caryn Holmes
Staff Counsel
cholmes@energy.state.ca.us

Robin Mayer
Co-Staff Counsel
rmayer@energy.state.ca.us

*Jared Babula
Co-Staff Counsel
jbabula@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
e-mail service preferred
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Ashley Garner, declare that on August 11, 2010, I served and filed copies of the attached: **GENESIS SOLAR, LLC SUPPLEMENTAL REPLY TO THE CURE'S REPLY BRIEF CONCERNING TRANSMISSION** dated **August 11, 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: [\[http://www.energy.ca.gov/sitingcases/genesis_solar\]](http://www.energy.ca.gov/sitingcases/genesis_solar).

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-8
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.


Ashley Garner