

## DOCKETED

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*Comment Received From: robert james simpson*

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**MOTION**

*Additional submitted attachment is included below.*

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**STATE OF CALIFORNIA**

**State Energy Resources  
Conservation and Development Commission**

In the Matter of:

HUNTINGTON BEACH ENERGY  
PROJECT AMENDMENT

NO. 12-AFC-02C

**MOTION TO CONTINUE HEARING  
DATES AND CHANGE OF VENUE**

**I. Introduction**

Petitioners Helping Hand Tools (“2HT”) seeks two motions. The first is a continuance of the hearing date to allow more time for public participation. The second is a motion to change the venue of the evidentiary hearing to impacted community, in this case Huntington Beach, as is custom in CEC proceedings.

**II. Motion for Continuance**

2HT seeks a continuance in this matter because none of the subject areas are complete and ready to proceed because the affected community has not been adequately engaged in this proceeding, affected community members have not had adequate opportunity to opine on the Final Staff Assessment, and the Evidentiary Hearing is scheduled to take place immediately following the Prehearing Conference, on the same day, and not in the affected community.

First, unlike other proceedings that have robust public participation, there are only two parties to this proceeding the applicant AES Huntington Beach Energy, LLC and CEC Staff. This shows that the local community must not have been adequately engaged by the Commission. At

the next pre-hearing conference, Petitioners intend to present evidence that the affected community has not received adequate notice of the projects likely impacts on it.

Second, Part 2 of the FSA, a 302-page document that contains detailed findings on the critical issues of public health and air quality, issued only seven days ago on December 9, 2016. That is not enough time for the affected community members to adequately digest and comment on the Staff's conclusions.

Finally, CEC evidentiary hearings for most AFC proceedings typically take place in the affected community (which, in this proceeding, would be Huntington Beach), and sometime after parties and member of the community have had adequate time to digest the Prehearing Conference. But in this case, the Evidentiary Hearing is scheduled to occur in Sacramento, and just two hours after the Prehearing Conference starts. (TN214701, Notice of Prehearing Conference and Evidentiary Hearing Etc.) The Prehearing Conference is intended to provide opportunity to "assess the adequacy of available information, identify issues, and determine the positions of the parties." As explained on the Commission's website:

Prehearing Conference: Following this, the Committee conducts a Prehearing Conference to assess the adequacy of available information, identify issues, and determine the positions of the parties. Based on information presented at this event, the Committee issues a Hearing Order to schedule formal evidentiary hearings. At the evidentiary hearings, all formal parties, including intervenors, may present sworn testimony, which is subject to cross-examination by other parties and questioning by the Committee. Members of the public may offer oral or written comments at these hearings. Evidence submitted at the hearings provides the basis for the Committee's analysis and recommendations to the full Commission and part of the evidentiary record.<sup>1</sup>

Similarly, the Commission's Siting Process Guidebook explains that "[t]he primary purpose of the pre-hearing conference is to prepare for formal hearings; (1) Identify issues in agreement and issues in dispute; (2) Schedule witnesses for subsequent hearings on the Notice of

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<sup>1</sup> Available at [http://www.energy.ca.gov/public\\_adviser/site\\_certification\\_process.html](http://www.energy.ca.gov/public_adviser/site_certification_process.html)

Intention, Application for Certification, or Small Power Plant Exemption; and (3) Establish procedures to be followed.”<sup>2</sup>

Holding the prehearing conference two hours before the evidentiary hearing interferes with the purposes of the conference—to allow preparation for the evidentiary hearing.

### **III. Motion for Change of Venue**

Additionally, 2HT files a motion to change the evidentiary hearing venue to Huntington Beach. As stated above, the CEC has a pattern and practice of holding evidentiary hearing in the affected community, because it allows members of the public to be actively involved. For example Alamitos Energy Center<sup>3</sup> had two evidentiary hearings in Long beach.<sup>4</sup> This is the same for the El Segundo Energy Center Amendment<sup>5</sup>, where the evidentiary hearing took place in El Segundo<sup>6</sup> and the Carlsbad Energy Center Project<sup>7</sup>, where the evidentiary hearing took place in Carlsbad.<sup>8</sup> The reason why this isn’t occurring for this proceeding is unclear. Huntington Beach is a large, densely populated community whose citizens are directly impacted by this power plant. The city itself has many concerns with the project and if the city has concerns the citizens themselves are likely to have many more. Yet, those citizens have limited practical ways to interact with the Commission.

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<sup>2</sup> Siting Process Guidebook, p. 99, available at <http://www.energy.ca.gov/2006publications/CEC-700-2006-002/CEC-700-2006-002.PDF>

<sup>3</sup> Docket 13-AFC-01

<sup>4</sup> Notice of Prehearing Conference and Evidentiary Hearing, Part 1 TN 214014 and Notice of Second Evidentiary Hearing, Scheduling Order, and Further Orders TN 214564)

<sup>5</sup> Docket 00-AFC-14C

<sup>6</sup> Notice of Prehearing Conference and Evidentiary Hearing, Scheduling Order, etc. TN 206179

<sup>7</sup> Docket 07-AFC-06

<sup>8</sup> Evidentiary hearing in Carlsbad. (Notice of Prehearing Conference and Evidentiary Hearing , Scheduling Order, and Further Orders. TN 203728)

Dated: Friday, December 16, 2016

Respectfully submitted,

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