

## DOCKETED

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<b>Project Title:</b>	Carlsbad Energy Center - Compliance
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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA**

Petition to Amend  
The Carlsbad Energy Center

Docket Number 07-AFC-06C

**ROBERT SARVEY'S RESPONSE TO SIMPSON'S MOTION TO DELAY**

The Committee has pushed hard to get this amendment completed so the Carlsbad Energy Center could commence commercial operation by November 1, 2017. The committee has set aggressive schedules for discovery. The committee has ordered CEC Staff to issue the FSA even without an FDOC. The CEC has hounded the San Diego Air Pollution Control District to complete its Final Determination of Compliance when it is clear that the district needs more time. This Committee wants to conduct evidentiary hearings with the possibility that there will be no FDOC. The committee has gone so far as to propose that the parties provide their post hearing briefs in a short time possibly without a recorded transcript.<sup>1</sup>

The great rush to construct the amended Carlsbad Energy Center by November 1, 2017 is **over**. The CPUC has decided that SDG&E must actually follow the loading order and evaluate its 2014 RFO to determine if preferred resources and energy storage are available to meet its

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<sup>1</sup> Okay, and we can talk about whether we need post—hearing briefs either at the prehearing conference, or the Evidentiary Hearings, or, well, that would be the last time, but plan on their being due relatively shortly after the hearings. We'll probably order expedited transcripts 1 so you'll have those very quickly, and then you'll have a little bit of time to finish your brief. But we fully expect that, even if you don't have the transcript in hand, you remember enough of what transpired so that you can write most of your brief and just fine tune maybe a quote or two, or find the reference to the particular part of the transcript after it comes out. But we won't be terribly sympathetic to somebody saying, "Well, I couldn't even start on writing my brief until I got the transcript." So any more questions about that?<sup>1</sup> so you'll have those very quickly, and then you'll have a little bit of time to finish your brief. But we fully expect that, even if you don't have the transcript in hand, you remember enough of what transpired so that you can write most of your brief and just fine tune maybe a quote or two, or find the reference to the particular part of the transcript after it comes out. But we won't be terribly sympathetic to somebody saying, "Well, I couldn't even start on writing my brief until I got the transcript." So any more questions about that?<sup>1</sup>

LCR needs due to the retirement of the San Onofre Nuclear Power Plant.<sup>2</sup> As the CPUC proposed decision on the Carlsbad PTA states, “*Thus, a better statement of the fundamental issue before us is whether the benefit of a competitive procurement process and its potential for procuring additional preferred resources beyond the minimum required by D.14-03-004 outweighs the risk of delaying Encina’s timely retirement and/or creating a reliability gap upon its retirement. We conclude that it does.*”<sup>3</sup> SDG&E has explained to the CPUC that requiring SDG&E to evaluate the Amended CECP with the other offers in the 2014 RFO will mean that the amended Carlsbad Energy Center will likely not commence construction until 2017 and reach commercial operation by mid-2019 at the earliest.<sup>4</sup> So there is no longer a need to rush this CEC process.

### FDOC Issuance

The FDOC an integral part of the environmental assessment is still outstanding. The Committee is pushing the air district to issue it. Obviously the air district must have received substantive comments on the PDOC and needs the appropriate time to evaluate them. Both Staff and applicant argue that a delay is not necessary because the FDOC will be issued on Friday March 13<sup>th</sup>. March 13<sup>th</sup> has come and gone and no FDOC has been issued.

Once the FDOC is received it is likely that CEC Staff will have to file an addendum to their testimony. The original schedule provided that the FSA was scheduled to be issued 30 days after the release of the FDOC.<sup>5</sup> Once the FDOC is issued the intervenors will then be tasked to evaluate the FDOC and the Staff addendum while preparing for the evidentiary hearing.

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<sup>2</sup> Unlike the CEC Staff Final Assessment which claims preferred resources and energy storage cannot meet the LCR needs for SDG&E only natural gas fired generation can meet these needs according to CEC Staff.

<sup>3</sup> A 14-07-009 Proposed decision of ALJ Yaknin Page 16 of 37

<sup>4</sup> SDG&E’s schedule for its all-source RFO anticipates finalization of contracts for Commission approval in the first quarter of 2016. Commission approval of any PPTAs from that all-source RFO would not occur until the end of 2016 *at the earliest* (this assumes no rehearing requests or court challenges, which is highly optimistic). Assuming a two-year construction schedule, commercial operation would not occur until mid or late 2019 *at the earliest*, as Carlsbad Energy Center, LLC/NRG witness Valentino explained in his testimony. **OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY** Pages 18 and 19 of 36  
[docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K502/143502967.PDF](https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K502/143502967.PDF)

<sup>5</sup> Committee Scheduling Order 9/26/2014 Page 5 of 5 [docketpublic.energy.ca.gov/PublicDocuments/07-AFC-06C/TN203107\\_20140925T171827\\_Committee\\_Scheduling\\_Order.pdf](https://docketpublic.energy.ca.gov/PublicDocuments/07-AFC-06C/TN203107_20140925T171827_Committee_Scheduling_Order.pdf)

### Rebuttal Testimony

The schedule for this proceeding is so compressed that rebuttal testimony is not due until six days after the pre-hearing conference. Evidentiary hearings are scheduled just six days after the rebuttal testimony has been filed. Staff and applicant have adequate resources as staff is funded by the ratepayers<sup>6</sup> and the applicant is NRG a multi-billion dollar company.<sup>7</sup> The intervenors are funding their participation out of their own pockets. It is unfair to expect the intervenors to review the FDOC, the Staff addendum for the FDOC, and the newly filed rebuttal testimony in just a few days. There is no longer a need for this accelerated schedule as construction will not commence until November of 2017 according to SDG&E.

### Conclusion

It is reasonable under the circumstances to provide a delay to allow the Intervnors time to review an FDOC which is likely to have substantial revisions. It is reasonable to allow time for the CEC Staff to review the FDOC and the proposed decision of ALJ Yaknin in A. 14-07-009 and provide any supplemental testimony that is required. The pre-hearing conference should be postponed until the staff addendum has been filed and the parties' rebuttal testimony has been filed. There is no need to accelerate the briefing schedule and at least thirty days should be provided for opening briefs once the transcript has been released. This project is not going to commence construction by November 1, 2017 so the committee needs to provide a schedule that allows all the parties' adequate time to participate in these proceedings.

Respectfully Submitted,

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<sup>6</sup> The CEC Staff spent \$543,175 on just outside consultants alone for the original application 07-AFC-06. That does not included charges for staff time. (Public Records Request Friday, December 26, 2014 9:37 AM)

<sup>7</sup> The Committee has allowed the applicant to file an amendment and not a new application so the applicant is not even funding the CEC review of the amendment ratepayers must fund it. The applicant only paid \$281,903.76 for the original AFC filing despite the fact that the CEC spent \$543,175 on consultants alone not to mention the CEC Staff, legal reveiw and committee time including a Supreme Court Challenge by the City of Carlsbad.

*Robert Sarvey*

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Robert Sarvey