

DOCKETED

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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
ALAMITOS ENERGY CENTER

DOCKET NO. 13-AFC-01

**SECOND REVISED GENERAL ORDERS REGARDING
ELECTRONIC DOCUMENT FORMATS,
ELECTRONIC FILING AND SERVICE OF DOCUMENTS
and OTHER MATTERS**

Until further order of the Committee¹ or Presiding Member, the following standards and requirements shall apply to the parties participating in this proceeding. These orders supersede any previous General Orders issued in this proceeding.

The requirements below come from several statutes, regulations, and rules guiding the conduct of adjudicative proceedings. Some are a modification of requirements imposed by the Warren-Alquist Act or the Commission's regulations.² Some are additional requirements adopted pursuant to the Presiding Member's authority to regulate the conduct of proceedings.³ Others are reminders of statutory or regulatory requirements set forth here for the convenience of the parties and public.

The Energy Commission's electronic filing system was designed and implemented to minimize paper documents in this and other proceedings. Since November 1, 2013, all parties to power plant permitting proceedings have been required to submit their documents electronically using the e-filing system and to receive documents from the Committee and other parties via e-mail and the Energy Commission website as described below.⁴ These orders continue those requirements.

¹ The Committee consists of Commissioner Karen Douglas, Presiding Member, and Commissioner Janea A. Scott, Associate Member. The full Commission made this Committee assignment at an Energy Commission Business Meeting on March 12, 2014.

² California Code of Regulations, title 20, section 1001 et seq. Unless otherwise specified, all subsequent citations are to those regulations.

³ Section 1203.

⁴ The requirement that parties accept service electronically is now contained in Section 1211(c).

Deadlines

Unless a different time for performance is stated in a notice, order, or other document, a deadline established therein shall mean 5:00 p.m. local time in Sacramento, California, on the specified date.

Filing Dates

Documents are filed (sometimes called ‘docketed’) according to the date they are received in Dockets, whether by upload to the e-filing system or, for parties who obtain a waiver of the e-filing requirement (below) or persons making public comments, via e-mail, on electronic media (CD), or on paper by mail or hand delivery.⁵ All filings received by 5:00 p.m. on business days will be marked as filed on that date. All filings received after 5:00 p.m. on a business day, or at any time on a Saturday, Sunday, or holiday, or other day when the commission is closed, will be marked as filed the next business day.⁶ Note that the first page of the filed document (the “docket stamp”) will show both the time of uploading and the filing (‘docket’) date assigned to it. If the Committee sets an earlier filing deadline for a specific filing, the document, though marked as filed on the deadline date, must also be uploaded by the specified time in order to be timely filed.

Service of Documents on Committee and Other Parties

Service of documents filed by a party or other person in this proceeding will be made by the e-filing system.⁷ After an uploaded document is approved for filing by the Docket Unit, the e-filing system automatically sends an e-mail to everyone on the Proof of Service list, and to the project’s electronic listserv⁸ with a link to the document on the Energy Commission’s website; the document itself is not attached to the e-mail because some documents are too large to be sent via e-mail. The document will also be immediately available via the “Documents for this Proceeding (Docket Log)” link on the project’s web page: <http://www.energy.ca.gov/sitingcases/alamitos/index.html>.

Parties who upload a document to the e-filing system or e-mail a document to Dockets shall not, unless specifically directed to do so by the Committee, e-mail or otherwise send the document directly to the other parties. This will help assure that all parties and the public are working with the same version of the document—the version approved for filing and containing the docket stamp information on its first page. There is no need to attach a Declaration of Service to the uploaded or e-mailed document unless delivery of a hard copy of a document to a party is required as described below.

⁵ Filing via email, mail and hand delivery requires a waiver of the e-filing requirement, described below.

⁶ Section 1208.

⁷ Section 1211(b).

⁸ To sign up for or remove yourself from a listserv, see <http://www.energy.ca.gov/listservers/index.html>

Mandatory E-filing; Hardship Waiver for Hard Copy Filers/Recipients

Effective immediately, all parties in this proceeding must submit their documents electronically using the e-filing system and receive documents from the Committee and other parties via e-mail and the internet as described above.

The Presiding Member may grant a waiver of those requirements upon a showing that the person does not have reasonably efficient and economic access to equipment that would allow the person to receive electronic notice of availability of a document, and to view it on the proceeding's website or to e-file his or her documents.⁹ If a waiver is granted, that party will be shown on the Proof of Service list with a physical mailing address without an e-mail address.

Prior to uploading documents to the e-filing system, parties shall review the proceeding's Proof of Service list (maintained in the e-filing system and accessible via a link on the project's web page) to determine if any parties require hard copies. If hard copies are required, a Declaration of Service, in or similar to the form also linked from the web page, shall be filed with or separately uploaded to confirm that the hard copy(ies) were provided. If no hard copies are required, no Declaration need be filed.

Parties uploading documents to the e-filing system shall, at the time of uploading, provide by mail or personal delivery a paper copy of the documents to any such party requiring hard copies. If the document is larger than 50 pages, they may instead mail or deliver a compact disk, DVD, or USB stick (thumb drive) containing an electronic copy of the document, provided that the recipient is offered the opportunity to request a paper copy.

A party granted a waiver allowing it to file paper copies of documents with the Dockets Unit shall, in addition to mailing or delivering the copy to Dockets, mail or deliver a paper copy to any other parties on the Proof of Service who require hard copies. The e-filing system will accomplish service on the other parties when the Docket Unit converts the paper copies to electronic form and files them.

Format of Electronic Documents

E-filed documents must be word searchable, if feasible.¹⁰ In some instances, electronic copies created by scanning a printed document are unable to be word searched, read by programs that assist the visually impaired, or easily read on small screen devices such as smart phones. The preferred method for creating a word searchable document is to create a .pdf (Portable Document Format) file by printing to a 'virtual printer' that creates a .pdf file from within the same program that is used to print a paper copy.¹¹

⁹ Section 1211(c).

¹⁰ Section 1208.1(b).

¹¹ The Commission's e-filing system also accepts uploads of Microsoft Word formatted files (.doc, .docx) and converts them to .pdf as part of the uploading process. If you choose to complete the conversion process this way, you are advised to click on the link to the file on the filing confirmation page to verify that the converted file accurately represents the Word file you uploaded.

Signatures on electronic documents may be electronic; a copy of a wet signature is not required.¹² Signatures may be indicated on electronic copies by embedding a scanned signature graphic, "Original Signed By," "/S/," or similar notation. The original printed copy of a document containing an original signature shall be retained by the party filing that document and produced if requested by the Presiding Member or Energy Commission.

Cover or transmittal letters which do not add any substantive information to uploaded documents are not necessary.

Exhibits

Documents that are intended to be presented as exhibits during a hearing shall, unless an exception is granted by the Presiding Member or Committee, be filed in advance of the hearing and referred to by Transaction Number (TN) or Exhibit Number during the hearing.

Exhibits must be filed as separate documents in order to assign separate Exhibit Numbers to them. Do not combine two or more exhibits into a single document. The e-filing system allows the uploading of multiple documents in a single upload transaction.

When asked to identify exhibits in advance of a hearing, the parties shall provide a table identifying the document by TN and an Exhibit Number from the range assigned to each party by the Committee. If the document is already filed in the system, it should not be re-filed; documents not yet filed in the system must be filed sufficiently prior to identification so that a TN can be provided to the Committee. If you wish to use a document filed in another docket, you must re-file it in this proceeding, Exhibit numbers cannot be assigned to documents filed in another proceeding.¹³

The Committee will enter the exhibit numbers into the e-filing system. The exhibits will then be available to the parties and public via the Exhibit List link on the project's web page at <http://www.energy.ca.gov/sitingcases/alamitos/index.html>. An updated Exhibit List is generated each time the link is selected.

If an exception to filing exhibits prior to a hearing is approved, hard copy documents may be submitted at the hearing to the Presiding Member. Additional hard copies for the other Committee member, Hearing Officer, Commissioners' advisers and other parties at the hearing shall be provided. The Presiding Member shall cause a copy of each document to be filed; the filed electronic copies shall become the official copies of the documents.

¹² Section 1208.1(e).

¹³ Note that the Application for Certification and Compliance dockets for a given power plant are separate dockets for these purposes.

Proof of Service List

The Hearing Unit in the Chief Counsel's Office maintains the Proof of Service (POS) List for this. To view the current Proof of Service list, navigate to the proceeding's web page at <http://www.energy.ca.gov/sitingcases/alamitos/index.html> and click on the "Proof of Service List" link. If you need a printed copy of the POS List for reference or to attach to a Declaration of Service when service of hard copies is required, print the list from your browser. Report any changes to a POS List entry to the assigned Hearing Officer.

Motions

Motions made in a written document shall be clearly stated and include a statement of the relief or action requested, the grounds for the requested relief or action and citation to a rule, law or other authority authorizing the Committee or Energy Commission to grant the request. The caption or title of the document containing the motion shall clearly indicate that that document contains a motion. It is not sufficient to simply say "I move/request that ____" in the body of the document; such a statement may be ignored by the Committee or Energy Commission in its discretion.

Unless the Presiding Member sets a different schedule, responses to a motion shall be filed within 14 days of the filing of the motion. Unless the Presiding Member allows for replies, no replies to the responses are allowed.¹⁴ The Committee or Hearing Officer may issue a courtesy reminder of the reply deadline. The lack of such a reminder does not excuse a failure to comply with the deadline.

Transcripts

Parties are responsible for identifying errors in the transcripts of the proceedings. Proposed corrections to the transcripts must be filed within 30 days of the filing of a transcript.

Presiding Member's Absence

If the Presiding Member is unavailable during any portion of a Committee meeting, he or she may delegate his or her responsibilities to the second (Associate) member of the Committee.¹⁵

Questions

Parties and members of the public may contact the Public Adviser at publicadviser@energy.ca.gov, or telephone toll free at (800) 822-6228 or (916) 654-4489, for assistance in understanding and complying with these general orders.

¹⁴ Section 1211.5.

¹⁵ Section 1204(d).

Further information about electronic filing and commenting, including training materials, is also provided on the Commission's website: <http://www.energy.ca.gov/e-filing/index.html>.

Dated: August 5, 2016, at Sacramento, California.

Original signed by
Karen Douglas
Commissioner and Presiding Member
AES AFC Committee