

DOCKETED

Docket Number:	13-AFC-01
Project Title:	Alamitos Energy Center
TN #:	214905
Document Title:	Applicant's Prehearing Conference Statement and Notice of Possible Motion
Description:	N/A
Filer:	Deric Wittenborn
Organization:	Ellison, Schneider & Harris LLP
Submitter Role:	Applicant
Submission Date:	12/19/2016 11:30:26 AM
Docketed Date:	12/19/2016

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

Application for Certification for the

ALAMITOS ENERGY CENTER

Docket No. 13-AFC-01

**PREHEARING CONFERENCE STATEMENT AND NOTICE OF POSSIBLE MOTION
AES ALAMITOS ENERGY, LLC**

ELLISON, SCHNEIDER & HARRIS L.L.P.
Jeffery D. Harris
Samantha G. Neumyer
2600 Capitol Avenue, Suite 400
Sacramento, California 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512

Attorneys for AES Alamos Energy, LLC

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

Application for Certification for the

ALAMITOS ENERGY CENTER

Docket No. 13-AFC-01

**PREHEARING CONFERENCE STATEMENT AND NOTICE OF POSSIBLE MOTION
AES ALAMITOS ENERGY, LLC**

INTRODUCTION

In accordance with the Committee’s November 23, 2016 *Notice of Second Evidentiary Hearing, Scheduling Order, and Further Orders* (“Notice”), AES Alamos Energy, LLC (“Applicant”) files this prehearing hearing conference statement, notice of possible motion, and exhibit list.

- 1. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.**

The Applicant proposes to introduce all direct testimony in writing rather than through oral testimony for all subjects. However, should other parties propose to introduce testimony through oral testimony for any subjects and should the Committee direct oral testimony for any subjects, the Applicant’s witnesses will be present and prepared to introduce testimony through both pre-filed written testimony and oral testimony.

- 2. The Air Quality and Public Health issues in dispute, and the precise nature of the dispute for each issue.**

None.

3. **The subject areas that were closed in Evidentiary Hearing, Part 1 that need to be reopened; how those subject areas relate to Air Quality and Public Health and the reasons for not proffering the evidence during Evidentiary Hearing, Part 1.**

There are no subject areas that need to be reopened.

4. **The identity of each witness the party intends to sponsor at the Evidentiary Hearing Part 2, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically.**

WITNESSES	SUBJECT AREAS	TESTIMONY FORMAT/ TIME	SUMMARY
Jerry Salamy Stephen O’Kane Elyse Engel	Air Quality Public Health	Pre-filed written testimony and oral testimony, if determined necessary at the Evidentiary Hearing (approx. 25 minutes)	Mr. Salamy, Mr. O’Kane, and Ms. Engel are available to address questions regarding Air Quality and Public Health.
Benjamin Beattie	Air Quality	Pre-filed written testimony and telephonic oral testimony, if determined necessary. (approx. 20 minutes)	Mr. Beattie is available to testify telephonically to address questions regarding Air Quality.

The qualifications of each witness were provided in Appendix A to the Applicant’s Opening Testimony, Part 2 (Ex. 1610).

////

////

5. **Subject areas upon which the party desires to question the other parties’ witness(es), a summary of the scope of the questions (including witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness.**

WITNESS	PARTY	SUMMARY OF SCOPE OF QUESTIONS	ISSUE(S) TO WHICH THE QUESTIONS PERTAIN	TIME DESIRED TO QUESTION
Joe Geever	Los Cerritos Wetlands Land Trust	Qualifications of witness	Weight and relevance of testimony presented.	20 minutes
Bill Powers	Los Cerritos Wetlands Land Trust	Qualifications of witness	Weight and relevance of testimony presented.	20 minutes

6. **A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence during the Evidentiary Hearing Part 2 and the technical subject areas to which they apply (see below for further details on Exhibit Lists).**

The Applicant’s Exhibit List is provided as Attachment A.

7. **Proposals for briefing deadlines or other scheduling matters.**

The Applicant agrees with the briefing deadlines set forth in the Notice. However, the Applicant is concerned with the proposed date for the issuance of the Presiding Member’s Proposed Decision and the Final Decision.

8. **Additional Matters: Notice of Possible Motion to Strike.**

At the December 20, 2016 evidentiary hearing, the Applicant may offer a Motion to Strike portions of the Trust’s prefiled testimony and certain proffered documents.

The Committee’s *Notice Of Second Evidentiary Hearing, Scheduling Order, and Further Orders* clearly states that the “Purpose of [the] Evidentiary Hearing” is “to receive evidence into the formal hearing record from the parties.” (TN# 214564.) The Commission’s Regulations affirm “...evidence does not include, among other things, speculation, *argument*, conjecture, and *unsupported* conclusions or opinions.” (20 C.C.R. § 1212(c)(2).)

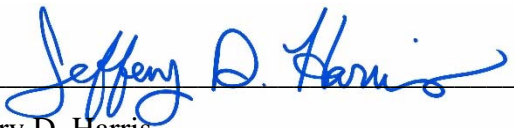
The majority of the Trust's Part 2 Opening Testimony provides legal argument, not evidence. Except for a few citations to factual matters already set forth in the hearing record, the vast majority of the Trust's Part 2 Opening Testimony, beginning on page 8 of its filing, is legal argument (TN# 214853).

As for exhibits, the Trust has proffered documents that are not "the sort of information on which responsible persons are accustomed to relying on in the conduct of serious affairs." (20 C.C.R. § 1212(c)(2).) For example, the Trust relies heavily on *Mr. Power's own legal brief* in a different matter *before the California Public Utilities Commission* ("CPUC") (Reply Brief of Powers Engineering," TN# 214861). The Trust cannot convert its arguments from its own legal brief in a different forum into "facts" to become part of the evidentiary record in this proceeding.

Though under no legal obligation to do so at this stage, the Applicant provides this notice of possible Motion to Strike to allow the Trust to prepare and address these issues at the December 20, 2016 evidentiary hearing.

December 19, 2016

ELLISON, SCHNEIDER & HARRIS L.L.P.

By: 
Jeffery D. Harris

Samantha G. Neumyer
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Tel: (916) 447-2166
Attorneys for AES Alamos Energy, LLC

ATTACHMENT A

AES Alamos Energy, LLC's Exhibit List



Docket Number: 13-AFC-01

Project Name: ALAMITOS ENERGY CENTER

AES ALAMITOS ENERGY, LLC'S EXHIBIT LIST

Exhibit	Docket Transaction Number	Title of Document As Shown in the Docket	Subject Area
1600	207315	SCAQMD's AEC Air Permit Application Completeness Determination	Air Quality
1601	207317	SCAQMD AEC Email Correspondence January 14, 2016	Air Quality
1602	209909	SCAQMD's Letters to EPA/FLMs Submitting the AEC Air Permit Application	Air Quality
1603	211009	SCAQMD's Letters to EPA and Federal Land Managers Transmitting the Revised AEC Air Permit Application	Air Quality
1604	212045	Preliminary Determination of Compliance	Air Quality/ Public Health
1605	214373	Additional Determination of Compliance Revisions	Air Quality/ Public Health
1606	214636	AES AEC Re-Issued PDOC Public Notice Distribution Verification	Air Quality/ Public Health
1607	214637	AES's Comments on the SCAQMD Final Determination of Compliance	Air Quality/ Public Health
1608	214527	Alamitos Energy Center (AEC) Final Determination of Compliance (FDOC) Package	Air Quality/ Public Health



Docket Number: 13-AFC-01

Project Name: ALAMITOS ENERGY CENTER

AES ALAMITOS ENERGY, LLC'S EXHIBIT LIST

Exhibit	Docket Transaction Number	Title of Document As Shown in the Docket	Subject Area
1609	214528	Alamitos Energy Center (AEC) Draft Facility Permit for Final Determination of Compliance (FDOC) Package	Air Quality/ Public Health
1610	214851	AES Opening Testimony, FSA Part 2	Air Quality/ Public Health
1611	TBD: To be obtained with 12-19-16 filing	AES Rebuttal Testimony, FSA Part 2	Air Quality/ Public Health