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October 16, 2006

Docket Office
Attention: Docket No. 04-SIT-02
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Docket No. 04-SIT-02

Dear Docket Clerk:

Enclosed are an original and twelve copies of Comments of the California Unions for Reliable Energy on the Proposed Revisions to the Regulations Governing the Rules of Practice and Procedure and Power Plant Site Certification. Please process and return one endorsed copy in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely,

Bonnie Heeley

:bh
Enclosures

1116-266a

CALIFORNIA ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of: Proposed Revisions to the Regulations Governing the Rules of Practice and Procedure and Power Plant Site Certification	Docket No: 04-SIT-02

COMMENTS OF THE CALIFORNIA UNIONS FOR RELIABLE ENERGY ON THE PROPOSED REVISIONS TO THE REGULATIONS GOVERNING THE RULES OF PRACTICE AND PROCEDURE AND POWER PLANT SITE CERTIFICATION

Pursuant to the Siting Committee's September 25, 2006 Notice of Extension of the Comment Period, California Unions for Reliable Energy offers these comments on the Proposed Revisions to the Rules of Practice and Procedure and Power Plant Site Certification.

As we stated at the September 20, 2006 workshop, we agree with nearly all of Staff's proposed changes, though some could be improved as discussed in the workshop. The purpose of these comments is to briefly recapitulate three points stated at the workshop.

1. Section 1207 – Intervenors

Staff proposes in the alternative to substitute the requirements of the Administrative Procedures Act for the current regulations governing participation of intervenors. In several ways, the APA could significantly constrain the ability of intervenors to meaningfully participate in Commission siting cases.

First, the APA requires the potential intervenor to meet a higher standard to be entitled to intervene in the proceedings. (Section 11440.50 (b)(3) and (4).) Second, even if allowed to intervene, the presiding member could impose conditions that limit participation to "designated issues in which the intervenor has a particular interest" and could impose other procedural limitations. (Section 11440.50 (c).) These limitations are inconsistent with Commission's practice of several decades, unnecessary and inconsistent with CEQA.

The Commission has a long history of welcoming participation by any intervenor interested and willing to devote the time and resources needed to participate in Commission siting proceedings. This enhances both the quality of the Commission's decisions and their legitimacy. The Commission should not take any steps that diminish this laudable history.

The presiding member has ample authority under the existing regulations to control siting proceedings and to quickly rule on issues raised by vexatious litigants. Section 1207(c) authorizes the presiding member to

grant leave to intervene "to the extent he deems reasonable and relevant." This allows the presiding member to control the proceeding. It is not necessary to change the regulations.

Finally, any new constraints on participating in Commission siting proceedings could jeopardize the CEQA equivalency of the siting process. Because CEQA does not impose any limitations on who may comment on which issues, the Commission should not adopt any such limitations. If the Commission limited participation more strictly than CEQA, its siting process could not retain its CEQA equivalency.

The Commission should not replace Section 1207 with the APA provisions regarding intervenors.

2. Section 1716 – Obtaining Information

Staff proposes to require that a party petitioning the siting committee to require a second party to provide information must do so within 10 days of being notified that the second party is unable or objects to providing the information requested. (Section 1716 (g).) There is nothing wrong with establishing a deadline for a motion to compel production of information, but 10 days from the date of objections would cause many needless motions.

Section 1716 (f) requires a party asked for information to provide any objections within 10 days of receiving the request, but gives that party 30 days to provide information requested. If a motion to compel were required within 10 days of the objection, it would be required ***before*** any information

is provided. Because partial or precautionary objections are common, it would save the Commission's and all parties' resources to wait until after information is produced to determine if a motion to compel was actually necessary. As we suggested at the workshop, motions to compel should be due 30 days after the responding party has provided its responses.

We also note that Jeff Harris suggested that the 10 day time period for objections should be 20 days. We agree that this would reduce the need for objections. In combination, the two changes would minimize the need for motions to compel that could otherwise be avoided.

3. Appendix B – Air Quality

Among the proposed requirements for data adequacy is information concerning offsets. (Appendix B, (8)(J)(iii).) However, the proposal does not require the Applicant to identify the location of the offsets. This information is important for the CEQA analysis and should be required. The Commission's CEQA analysis often shows that a project will have localized air quality impacts. For the Commission to determine the effectiveness of offsets as mitigation, it must know the location of the source creating the offsets. Therefore, this information requirement should be added to Appendix B.

* * *

We appreciate the opportunity to comment on the proposed changes and look forward to working with the Commission on these issues in the future.

Dated: October 16, 2006

Respectfully submitted,

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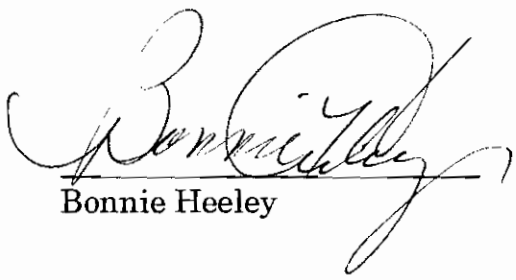
Attorneys for California Unions for Reliable Energy

CERTIFICATE OF SERVICE

I, Bonnie Heeley, declare that on October 16, 2006, I served the attached **Comments of the California Unions for Reliable Energy on the Proposed Revisions to the Regulations Governing the Rules of Practice and Procedure and Power Plant Site Certification** via email to the email addresses listed below and via the United States mail by depositing with the U.S. Mail in South San Francisco, California with first class postage thereon fully prepaid and addressed to the parties listed below.

Dated at South San Francisco, California this 16th day of October, 2006. I declare under penalty of perjury that the foregoing is true and correct.



Bonnie Heeley

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