



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

DOCKET
07-AFC-4

DATE OCT 10 2008

RECD. OCT 10 2008

APPLICATION FOR CERTIFICATION (AFC) FOR THE
CHULA VISTA ENERGY UPGRADE PROJECT

DOCKET No. 07-AFC-4

BRIEFING ORDER

The Committee hereby establishes a schedule for the submission of legal briefs to assist the Committee in reviewing the record and drafting the Presiding Member's Proposed Decision (PMPD). Attached hereto are the Schedule and the Briefing Topics List.

The parties (Staff, Applicant, and Intervenors) are required to file and serve their briefs no later than 5:00 p.m. on the due dates listed in the Schedule. **The Committee will not consider any brief filed after the deadline for that brief.** The parties' briefs shall support any factual assertions with citations to the Exhibits, applicable law, and Reporter's Transcript, including appropriate page and line numbers. The Reporter's Transcript is expected to be published by October 21, 2008.

BRIEFING SCHEDULE

<i>DATE (2008)</i>	<i>EVENT</i>
Wednesday, November 5, 2008	All parties file opening briefs that discuss the Briefing Topics and identify the law and evidence that support their respective positions
Wednesday, November 19, 2008	All parties file reply briefs.

Briefing Topics

1. LORS

- a. Does the proposed project comply with the land use policies in the City of Chula Vista General Plan and with the Zoning Ordinance of the City of Chula Vista? If not, are there any feasible alternative sites that would eliminate the noncompliance(s)?
- b. For each provision of the General Plan or the Zoning Ordinance for which there is noncompliance, can the Commission “override” the noncompliance pursuant to section 25525 of the Warren-Alquist Act and section 1752(k) of the Commission’s regulations?

2. CEQA

- a. Will the proposed project cause any significant adverse environmental impacts? (This part of the briefs should include, but not be limited to, a discussion of (i) whether the existence of impacts should be assessed assuming 1200, 4400, or some other number of hours of operation, and (ii) what the “baseline” for assessing impacts should be.)
- b. For any such impact:
 - (1) Is there feasible mitigation, or a feasible project alternative, that would reduce or avoid the impact?
 - (2) If there is no such mitigation or alternative, can the Commission “override” the impact under section 21081(b) of CEQA and section 1755(d) of the Commission’s regulations?

3. ENVIRONMENTAL JUSTICE

- a. Does the proposed project have environmental impacts that fall disproportionately on minority or low-income populations?
- b. For any such impact:

(1) Is the impact below the level of CEQA “significance,” and if so, does such an impact have consequences for the applicant or for the Commission under California or federal environmental justice law?

(2) What, if anything, is the applicant or the Commission required to do as the result of the existence of such impact?

4. **OTHER**

Any other topic which a party wishes to address.

The Committee encourages the parties to draft proposed findings and conclusions for each issue addressed in their briefs.

It is so **ORDERED**.

Dated: October 10, 2008, at Sacramento, California.

Original Signed By: _____
JACKALYNE PFANNENSTIEL
Chairman and Presiding Member
Chula Vista Energy Upgrade AFC Committee

Original Signed By: _____
JAMES D. BOYD
Vice Chair and Associate Member
Chula Vista Energy Upgrade AFC Committee