



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**  
**01-AFC-21C**

DATE July 15 2009

RECD. July 15 2009

**APPLICATION FOR CERTIFICATION  
FOR THE TESLA POWER PROJECT BY PG&E**

**DOCKET No. 01-AFC-21C**

**CERTIFIED 6/16/04**

**COMMITTEE ORDER DENYING PETITION TO INTERVENE**

Upon consideration of the Petition to Intervene filed by Independent Energy Producers (“Petitioner”), the Siting Committee designated to conduct proceedings in this matter makes the following findings:

1. On July 6, 2009, a Petition to Intervene (“Petition”) in the above-captioned proceeding was filed by:

Ellison, Schneider, & Harris, LLP  
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Independent Energy Producers  
Att: Steven Kelly  
1215 K Street  
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steven@iepa.com

2. The Petition contains the information required by the Commission’s regulations. [Cal. Code Regs., tit. 20, § 1207 subd. (a)]
3. Petitioner represents developers and operators of independent energy facilities and independent power marketers including gas-fired merchant plants, cogeneration facilities, and renewable energy producers.
4. Petitioner believes that this proceeding potentially affects its members’ economic investments and, consequently, its interest in ensuring that the Commission’s resolution of PG&E’s request for an extension of certification is based on the same terms and conditions as other similarly situated merchant facilities.
5. The Petition was not timely filed because the deadline for petitions to intervene

is 30 days prior to the first hearing on the application for certification. [Cal. Code Regs., tit. 20, § 1207 subd. (b)].

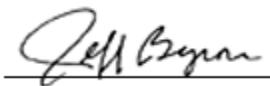
6. The first hearing on the application for certification for the Tesla Power Project was held September 10, 2003.
7. This proceeding is a continuation of the original certification proceeding for the Tesla Power Project.
8. The original parties in the certification proceeding are listed on the Proof of Service list.
9. The Petitioner is not a named party on the Proof of Service List.
10. In previous proceedings on certification extension requests, the Commission has allowed non-parties to participate as “Interested Participants.”
11. PG&E filed a partial opposition to the Petition, asserting that the Petitioner’s interest in this matter should be limited to the legal standards for determining “good cause” for an extension of certification and whether certification automatically expires under the 5-year deadline established in the Commission’s regulations. PG&E argues that Petitioner does not have information relative to factual matters identified in Question 3 of the Committee’s Order and, therefore, is not entitled to present testimony or cross-examine witnesses.
12. Intervenor Robert Sarvey supports the Petition to Intervene arguing that Petitioner may have relevant information regarding the competitive hybrid generation market in which independent power producers and utilities can compete to provide the lowest rates for consumers.
13. Petitioner's interests are generally relevant to legal and factual issues identified in the Notice of Evidentiary Hearing scheduled on July 20, 2009.

Therefore, based on the belated filing of the Petition and PG&E’s concerns, the Petition to Intervene is **DENIED**, and Petitioner is not entitled to examine or cross-examine witnesses. However, the Petitioner shall be added to the Proof of Service List as an “Interested Participant” to receive all documents filed by the parties. As an “Interested Participant,” the Petitioner may file and serve written comments no later than noon, Friday, July 17, 2009, and present oral comments at the Evidentiary Hearing on July

20, 2009.

If Petitioner has questions regarding the testimony filed in this proceeding, the questions may be directed to the Hearing Officer and served electronically to the Proof of Service list by noon, Friday, July 17, 2009. The Petitioner may request the Committee to take administrative notice of any official documents that could potentially illuminate the issues in this proceeding. In the event that the Committee should order post-hearing briefing, the Petitioner may file an amicus brief according to the Committee's schedule.

Dated July 15, 2009, in Sacramento, California.



JEFFREY D. BYRON  
Commissioner and Presiding Member  
Siting Committee



KAREN DOUGLAS  
Chairman and Associate Member  
Siting Committee



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FOR THE *Tesla Power Project*

DOCKET No. 01-AFC-21C

PROOF OF SERVICE

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DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on July 15, 2009, I served and filed copies of the attached Committee Order Denying Petition to Intervene dated July 15, 2009. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [[www.energy.ca.gov/sitingcases/tesla](http://www.energy.ca.gov/sitingcases/tesla)].

The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

*(Check all that Apply)*

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses NOT marked "email preferred."

**AND**

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

**OR**

depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 01-AFC-21C

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct.

Original Signed By:  
RoseMary Avalos