

DOCKET

08-AFC-12

DATE 08/03/2009

RECD. 08/03/2009

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:)

)

Application for Certification for the)

San Joaquin Solar 1 and 2 Hybrid Power Plant)

)

San Joaquin Solar 1 and 2 LLC)

Docket No. 08-AFC-12

**OBJECTIONS TO DATA REQUESTS
OF
CALIFORNIA UNIONS FOR RELIABLE ENERGY,
SET 2**

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STATE OF CALIFORNIA

**Energy Resources Conservation
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<u>San Joaquin Solar 1 and 2 LLC</u>)	

**OBJECTIONS TO DATA REQUESTS
OF
CALIFORNIA UNIONS FOR RELIABLE ENERGY,
SET 2**

On July 14, 2009, San Joaquin Solar 1 LLC and San Joaquin Solar 2 LLC, collectively referred to as San Joaquin Solar or “Applicant”, received California Unions for Reliable Energy (CURE) *Data Requests, Set 2*. Except as noted below, the Applicant will respond to these requests on or before August 13, 2009. There are, however, specific questions to which the Applicant objects.

Pursuant to Title 20, California Code of Regulations, Section 1716(f), Applicant hereby objects to CURE's Data Requests 3, 9, 13, 15, 19 and 35.

Section 1716 of the Commission's regulations (Cal. Code Regs., tit. 20 § 1716) contains the basic framework for information exchanges between parties in licensing proceedings: “A party may request from an Applicant ... information which is reasonably available to the Applicant which is relevant to the application proceedings or reasonably necessary to make any decision on the ...application.” (Cal. Code of Regs., tit. 20 § 1716(b).) The Applicant may then answer or object to the request. If the Applicant objects, the requesting party may then forego

the request, seek alternative means of obtaining the desired information, or petition for an Order directing the Applicant to provide the information. In considering the reasonableness of a data request, the Commission evaluates whether the information sought appears to be reasonably available to the Applicant and whether the requested information is relevant and reasonably necessary for the Commission to reach a decision on the Application.

The Applicant objects to those data requests that request information that is not reasonably available to San Joaquin Solar. The Applicant also objects to those data requests that are not relevant to the proceeding and reasonably necessary to make any decision on the Application

SPECIFIC OBJECTIONS

Data Request 3

Please provide a copy of the grading and drainage plan.

Objection:

The grading and drainage plan has not been completed and is not available at this time. The grading and drainage plan will be provided to the Commission and CURE when it is completed. San Joaquin Solar objects to this request because the grading and drainage plan is not reasonably available to the Applicant at this time.

Data Request 9

Please provide a description of biomass “pre-sizing” by “fuel aggregators” including a discussion of the typical particle sizes of biomass waste products for loading into the fluidized bed combustors and a description of the fuel aggregators including their type (hammer mill, knife hog, etc.), type of screens (scalping disk oscillating, shaker deck, etc.), power supply, loading and unloading, maximum rated throughput, etc.

Objection:

San Joaquin Solar objects to this request because the information is not reasonably available to the Applicant. At this stage of the proceeding, "fuel aggregators" have not been selected and the Project has not been designed to a level of detail that would allow identification of "typical" particle sizes. In addition, to the extent that CURE requests "technical information for the equipment that would be employed to handle and pre-size biomass", the Applicant objects because this level of technical information is not necessary for the Commission to make a decision on the Application.

Data Request 13

Please provide fly ash analyses from biomass combustion at similar facilities. When providing percentages, please indicate whether the values are based on "as combusted" or "bone dry."

Objection:

The Applicant has no fly ash analyses from biomass combustion at "similar" facilities. San Joaquin Solar objects to this request because the information is not readily available to the Applicant. The answering party is not required to perform research or analysis on behalf of the requesting party. If CURE desires this information, it may request the data from these other facilities as easily as requesting the information from the Applicant. In addition, the Applicant objects to this request because analyses of combustion from other unspecified facilities is not relevant to this Application or reasonably necessary for the Commission to reach a decision on this Application.

Data Request 15

Please provide estimates for the maximum daily and annual average on-site electricity demand for the Project's electric-powered equipment and facility operations including the reverse

osmosis water treatment facility, the “fuel aggregators,” conveyors, baghouses, pumps, fans, motors, controls, lighting, heating, ventilation, air conditioning, etc.

Objection:

San Joaquin Solar will provide estimates for the maximum daily and annual average on-site electricity demand for the Project as a whole. To the extent that this request asks for estimated electricity demand for individual pieces of equipment, the Applicant objects on the grounds that the information is not reasonably available to the Applicant and that the information is not reasonably necessary to make a decision on this Application.

Data Request 19

Please provide an estimate of the chemical composition of the dewatered residues in the evaporation ponds in mg/kg for each constituent.

Objection:

The Applicant has not estimated the chemical composition of the dewatered residues in the evaporation ponds in mg/kg for each constituent. San Joaquin Solar objects to this request because the information is not reasonably available to the Applicant. The Applicant further objects to this request on the grounds that CURE has not demonstrated that this information is reasonably necessary to make a decision on this Application. CURE's sheer speculation, unsupported by any authority, that "the dewatered residues might have to be disposed of as a hazardous waste" is not sufficient to establish the relevance of the requested information.

Data Request 35

Please rank alternative Project locations and state which would be the preferred Project site alternative in the event that Fresno County denies cancellation of the subject Williamson Act contracts.

Objection:

California Government Code § 51282(b) does not require the Applicant to rank alternative Project locations and identify a "preferred Project site" in the event that Fresno County denies cancellation of the subject Williamson Act contracts. Instead, this statute requires a finding by the Board that "there is no proximate, noncontracted land which is both available and suitable for the proposed use or that development of the contracted land would provide more contiguous patterns of urban development." The Applicant is not aware of any proximate, noncontracted land which is both available and suitable for the proposed use or of any contracted land which is suitable for the proposed use and that would provide more contiguous patterns of urban development. Therefore, the ranking requested by CURE is irrelevant both to this Application proceeding and to the decision that will be made by Fresno County. In addition, we note that this Williamson Act finding by Fresno County is not subject to the pre-emptive jurisdiction of the Energy Commission and is, therefore, not reasonably necessary to make a decision on this Application.

Dated: August 3, 2009

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By  _____

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PROOF OF SERVICE

I, Karen A. Mitchell, declare that on August 3, 2009, I served the attached *OBJECTIONS TO DATA REQUESTS OF CALIFORNIA UNIONS FOR RELIABLE ENERGY, SET 2* via electronic and U.S. mail to all parties on the attached service list.

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



Karen A. Mitchell

SERVICE LIST
08-AFC-12

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