



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

09-AFC-5

DATE JUL 23 2010

RECD. JUL 23 2010

APPLICATION FOR CERTIFICATION FOR THE
ABENGOA MOJAVE SOLAR PROJECT

DOCKET No. 09-AFC-5

**COMMITTEE ORDER ON SUFFICIENCY OF EVIDENCE
REGARDING THE TOPIC OF WORKER SAFETY AND FIRE PROTECTION**

On June 28, 2010, and July 15, 2010, the Committee conducted hearings on Applicant Abengoa Solar, LLC's Application for Certification of a nominal 250 megawatt solar generating facility in unincorporated San Bernardino County, California. The Committee designated July 15 as the date for the parties to submit evidence and argument on the topic of **Worker Safety and Fire Protection**. Based on the prehearing filings and arguments of the Applicant, Commission staff, and the County of San Bernardino, three issues require adjudication under the topic of Worker Safety and Fire Protection: (1) whether the Abengoa Mojave Solar Project (AMS) will have a significant environmental impact on local fire protection services, (2) if so, whether the impacts are direct and cumulative or merely cumulative, and (3) the appropriate mitigation for any such impacts. These issues involve Staff-proposed Condition of Certification **WORKER SAFETY-6**.

Prior to and during the July 15, 2010 hearing, the Applicant and Staff submitted substantial testimony and evidence on the issues. In pre-hearing briefings and during the hearing, the Applicant asserted that the project will have no significant environmental impacts relating to fire services, objected to the timeliness of Staff's supplemental testimony and evidence, and reserved the Applicant's right to submit additional direct and rebuttal testimony if necessary. The Applicant asserted that it would not exercise the reservation of rights if Staff or the Committee agreed to a Condition of Certification modeled after Conditions of Certification **WORKER SAFETY -6** and **-7** in the Colusa Generating Station Commission Final Decision (06-AFC-09) issued in April 2008 (hereinafter, "Colusa Conditions"). These conditions included measures requiring the applicant to reach agreement with the fire department regarding funding resources to mitigate potential project-related impacts. If no agreement could be reached, the applicant was required to fund an independent consultant's study to evaluate potential impacts and recommend funding to mitigate any identified significant impacts, which the Commission would use, along with all available information, to determine the proper funding amount.

At the close of July 15 hearing, the Committee advised the parties that it required time to consider the issues requiring adjudication and Staff's proposed Condition of Certification **WORKER SAFETY-6**. The Committee has reviewed the related evidence admitted into the evidentiary record and considered possible application of mitigation measures modeled on, but not identical to, Colusa Conditions. Based thereon, the Committee makes the following findings:

1. The Committee does not require further evidence to determine whether (1) the AMS project will have a significant environmental impact on local fire protection services, (2) if so, whether the impacts are direct and cumulative or merely cumulative, and (3) that AMS's payment of impact fees would be appropriate mitigation for any such impacts.
2. The Committee has determined that the evidentiary record and legal authority that includes the California Environmental Quality Act and implementing decisional law support the Committee's imposition of mitigation that includes direction to the Applicant, Staff, and the fire department to reach agreement or in the absence of such agreement by a specified time, provide for an evaluation by an independent third party funded by the Applicant to determine the level of any required mitigation.

THEREFORE, the Committee orders the record **closed** on the topic of **Worker Safety and Fire Protection**.

The Committee will accept from the parties properly filed and served proposed Condition of Certification language, legal argument regarding mitigation measures modeled on the Colusa Conditions, or both, up to **5:00 p.m. on Wednesday, July 28, 2010**.

Dated July 23, 2010, at Sacramento, California.

Original signed by:
ANTHONY EGGERT
Commissioner and Presiding Member
Abengoa Mojave AFC Committee

Original signed by:
JAMES D. BOYD
Vice Chair and Associate Member
Abengoa Mojave AFC Committee



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

APPLICATION FOR CERTIFICATION
FOR THE **ABENGOA MOJAVE
SOLAR POWER PLANT**

Docket No. 09-AFC-5
PROOF OF SERVICE
(Revised 7/21/2010)

APPLICANT

Emiliano Garcia Sanz
General Manager
Abengoa Solar Inc.
11500 West 13th Avenue
Lakewood, CO 80215
emiliano.garcia@solar.abengoa.com

Scott D. Frier
Chief Operating Officer
Abengoa Solar Inc.
13911 Park Ave., Ste. 206
Victorville, CA 92392
scott.frier@solar.abengoa.com

*Tandy McMannes
VP Business Development
Abengoa Solar Inc.
235 Pine Street, Suite 1800
San Francisco, CA 94104
tandy.mcmannes@solar.abengoa.com

APPLICANT'S CONSULTANTS

Frederick H. Redell, PE
Engineering Manager
Abengoa Solar, Inc.
11500 West 13th Avenue
Lakewood, CO 80215
frederick.redell@solar.abengoa.com

COUNSEL FOR APPLICANT

Christopher T. Ellison
Ellison, Schneider & Harris
2600 Capitol Ave., Suite 400
Sacramento, CA 95816
cte@eslawfirm.com

INTERESTED AGENCIES

California ISO
E-mail Preferred
e-recipient@caiso.com

INTERVENORS

County of San Bernardino
Ruth E. Stringer, County Counsel
Bart W. Brizzee, Deputy County Counsel
385 N. Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415-0140
bbrizzee@cc.sbcounty.gov

California Unions for Reliable Energy ("CURE")
Tanya A. Gulesserian
Marc D. Joseph
Elizabeth Klebaner
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
E-mail Preferred
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com

Luz Solar Partners Ltd., VIII
Luz Solar Partners Ltd., IX
Jennifer Schwartz
700 Universe Blvd
Juno Beach, FL 33408
jennifer.schwartz@nexteraenergy.com

ENERGY COMMISSION

ANTHONY EGGERT
Commissioner and Presiding Member
aeggert@energy.state.ca.us

JAMES D. BOYD
Vice Chairman and Associate Member
jboyd@energy.state.ca.us

Kourtney Vaccaro
Hearing Officer
kvaccaro@energy.state.ca.us

Lorraine White
Adviser to Commissioner Eggert
lwhite@energy.state.ca.us

Craig Hoffman
Project Manager
choffman@energy.state.ca.us

Christine Hammond
Staff Counsel
chammond@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Maggie Read, declare that on July 23, 2010, I served and filed copies of the attached Committee Order on Sufficiency of Evidence Regarding the Topic of Worker Safety and Fire Protection, dated June 23, 2010. The original documents, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[http://www.energy.ca.gov/sitingcases/abengoal/index.html]. 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:

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;

by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date 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. 09-AFC-5
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original signed by: _____
Maggie Read
Hearing Adviser's Office