



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-3

DATE _____

RECD. DEC 13 2010

**APPLICATION FOR CERTIFICATION FOR THE
MARIPOSA ENERGY PROJECT
MARIPOSA ENERGY, LLC**

DOCKET No. 09-AFC-3

**COMMITTEE ORDER DENYING MOTION TO ADOPT
THE COMMITTEE'S OCTOBER 12, 2010 SCHEDULE**

Upon consideration of the Motion for a Revised Schedule filed by Petitioners, Robert Sarvey, Rajesh Dighe and CalPilots, the Committee designated to conduct proceedings in this matter makes the following findings:

1. On November 22, 2010, a Joint Motion to Adopt the Committee's October 12, 2010 Schedule (Motion) in the above-captioned proceeding was filed by Interveners Robert Sarvey, Rajesh Dighe and CalPilots.
2. The Motion asks the Committee to "abandon the revised schedule and proceed with the original schedule which does not create undue hardship on the CEC staff, interveners, and their experts who are unpaid volunteers." The only showing of "undue hardship" is the statement that the schedule "requires the interveners to prepare their testimony during the holiday period."
3. Energy Commission staff has declined to take a position on the Motion.
4. On December 1, 2010, Applicant filed a Response in opposition to the joint Motion.
5. Opening testimony is each party's independent, affirmative testimony, and is not necessarily responsive to the testimony of other parties. Applicant's Response accurately observes that the current schedule allows for opening testimony to be filed up to 16 days after the publication date of the Supplemental Staff Assessment (SSA) and rebuttal testimony is due anytime up to 30 days after the publication date of the SSA.

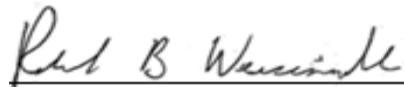
6. The Committee agrees with the Applicant that the Intervenors have had months to prepare their opening testimony from the time their Petitions to Intervene were granted. Mr. Sarvey has been an Intervenor to these proceedings since October 29, 2009. Mr. Dighe has been an Intervenor since February 8, 2010. CalPilots has been an Intervenor since October 20, 2010. All Intervenors were present and participated in the scheduling discussions held at the Mandatory Status Conference on October 6, 2010.
7. The current schedule provides two weeks from the date of publication of the SSA to file opening testimony, which is ample time. Typical Energy Commission Scheduling Orders allow no more than two weeks for preparation of rebuttal, and frequently allow less time. Here, with the SSA anticipated to be available the week of December 13, 2010 and rebuttal testimony due January 12, 2011, the parties are given about 30 days to rebut the SSA and all other filed testimony. The mere fact that the Christmas holiday falls on a Saturday within the interval between the publication of the SSA and the filing of the Intervenors' opening testimony does not, without more, constitute a hardship.

THEREFORE, the Joint Motion to Adopt the Committee's October 12, 2010 Schedule is **DENIED**.

Dated: December 8, 2010, at Sacramento, California.



JEFFREY D. BYRON
Commissioner and Presiding Member
Mariposa AFC Committee



ROBERT B. WEISENMILLER
Commissioner and Associate Member
Mariposa AFC Committee



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**APPLICATION FOR CERTIFICATION
FOR THE *MARIPOSA ENERGY PROJECT*
(MEP)**

Docket No. 09-AFC-3

PROOF OF SERVICE
(Revised 10/20/2010)

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ENERGY COMMISSION

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DECLARATION OF SERVICE

I, Maggie Read, declare that on December 8, 2010, I served and filed copies of the attached Committee Order Denying Motion to Adopt the Committee's October 12, 2010 Schedule. 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: [\[http://www.energy.ca.gov/sitingcases/mariposa/index.html\]](http://www.energy.ca.gov/sitingcases/mariposa/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:

(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-3
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