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<b>DOCKET</b>	
<b>09-AFC-3</b>	
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State of California  
State Energy Resources Conservation and Development Commission

In the Matter of: )  
)  
Mariposa Energy Project )  
)  
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Docket # 09-AFC-03

Rob Simpson Response to the Applicants  
January 25<sup>th</sup> Motion to Strike

The applicants motion to strike, supported by the commissions tentative ruling, prior to the conclusion of an opportunity to respond to the motion seems to have prejudiced the opportunity to respond to the motion. The audacity of the applicant in offering, at the Prehearing Conference, to accept without cross examination any testimony that the Commission does not strike, should moot the motion. The applicant obviously feels that it can withstand any of the testimony. If the applicant needs to respond to a few more issues, to assure a community that this process is more than a smoke screen for a forgone conclusion based upon some "need" or arrangement made prior to their, notice and opportunity to participate, than that would be a good demonstration of democracy. While the Commission seems to be bending over to accommodate an expedited hearing on the applicants behalf, the applicant sees fit to waste Commission resources by moving to strike any testimony contrary to its position. The testimony will still, ostensibly, be public comment, so the applicant would merely shift the duty to respond to the commission.

The motion seeks, both on procedural grounds, and pursuant the substantive issues raised in

testimony; to strike everything but the applicants position. The applicant seeks to ride into a community atop a Byzantine set of Commission rules, hedged by the interplay between a host of agencies, on a crusade to quash any resistance to its incursion. Intervention in CEC power plant siting's is a field in which no professional expertise is available because the CEC does not compensate interveners. In PUC proceedings and other actions which would require this degree of expertise and commitment of time, Interveners can receive compensation. If intervenors bring something to the table, as Mr. Sarvey has in so many proceedings without compensation, at least they can earn a reasonable fee for their contribution. Instead interveners are forced to compensate their own experts and are subjected to a hostile minefield of trapdoors that exclude them from participation. Community members who make the commitment to intervene are chided, dismissed and pigeon holed into unrealistic time and expertise constraints. If the Commission wishes to hold intervenors to this standard than the intervenors should be compensated. When dealing with unrepresented members of an environmental justice community, the commission should take care to maintain a level field, in which all can participate.

If the conclusion is already made that we "need" this facility than this exercise is futile. We need it, so lets dispense with this delay and get it built. But if as proposed in the CEC, "NOTICE OF WORKSHOP" "Joint Committee Workshop on Electricity Infrastructure Need Assessment" *is correct that;*

"To develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety, the Energy Commission is directed by Public Resources Code Section 25301 to regularly assess all aspects of energy demand and supply. These assessments are the foundation for analysis and policy recommendations to the Governor, Legislature, and other agencies. To carry out these assessments, "the Commission may require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric and natural gas utilities, transportation fuel and technology

suppliers, and other market participants.” (Public Resources Code Section 25301(a))...

A comprehensive need assessment document will organize and make more consistent disparate component parts discussed in numerous specialized forums. The absence of such a comprehensive assessment allows special-purpose advocates to assert that their favored solution meets all of California’s needs. To the extent that the resource development community needs guidance about what type of resource to propose and in what location, this assessment will provide improved information. This assessment is intended to satisfy the requirements of Public Resource Code Section 25302(c) and Section 25303(a)(3)"

[http://www.energy.ca.gov/2011\\_energypolicy/notices/2010-11-23\\_Joint\\_Workshop.pdf](http://www.energy.ca.gov/2011_energypolicy/notices/2010-11-23_Joint_Workshop.pdf)

then the motion should be denied, to at least consider salient testimony prior to deciding appropriate action or jurisdiction. Applicant and, staffs supporting testimony, is rife with contention of "need" for this electricity, generated in this location, with this equipment at this time. If this is a mandate beyond reproach than we should skip the hearings and license the facility. If, logically, this proceeding is to consider how much we need this this electricity, generated in this location, with this equipment at this time compared to its impacts, than the testimony should be admitted. Senate Bill 110 does not appear to instruct the Commission to consider all projects "needed" that would obviously moot these proceedings.

In light of the score of projects licensed by the Commission and never built (which are evidently not needed since the lights are still on) and in a time of constrained resources, the commission should take measures to; 1. determine that projects are subject to SB 110 ie. are the power plant owners "at risk to recover their investments" or are the ratepayers in the hook whether the plant is needed or not? and 2. is need relative? Is the Commission going to have a more fair and just proceeding by relegating testimony to comment and enduring intervenors determination to testify and examine around this useless roadblock or by simply accepting the testimony, which the Commission is not

precluded from doing and which the Applicant demonstrates a lack of concern either way.

The motion to strike any testimony should be denied.

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