



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	
11-CAI-02	
DATE	<u>JUL 26 2011</u>
RECD.	<u>JUL 26 2011</u>

**COMPLAINT & INVESTIGATION
 JURISDICTIONAL DETERMINATION REGARDING
 EAST AND NORTH BRAWLEY GEOTHERMAL
 DEVELOPMENTS**

Docket No. 11-CAI-02

SERVICE OF COMPLAINT AND SCHEDULING ORDER

On June 30, 2011, Complainant California Unions for Reliable Energy (“CURE”) filed a Verified Complaint and Request for Investigation (“Complaint”), requesting the Commission to investigate whether Ormat Nevada, Inc. (“Ormat”) has violated Public Resources Code section 25500 by circumventing the Commission’s jurisdiction of Ormat’s existing North Brawley Geothermal Development (“North Brawley”) and Ormat’s proposed East Brawley Geothermal Development (“East Brawley”). CURE alleges that Ormat’s North and East Brawley developments are not distinct facilities operating under the 50 MW jurisdictional threshold, but are instead one facility with a combined generating capacity over the 50 MW jurisdictional threshold, and thus should be subject to the Commission’s licensing authority. CURE provides as support a CPUC resolution authorizing a Power Purchase Agreement (“PPA”) between Southern California Edison Company (“SCE”) and Ormat for the sale of 50 MW from the North Brawley facility, with an option to sell an additional 50 MW from the East Brawley facility. CURE also alleges that the North Brawley and East Brawley facilities are not distinct units but are a single facility because they will function as interdependent and physically interconnected generation units, sharing both transmission and water supply infrastructure, all of which are owned or will be developed by Ormat; they are owned and will be controlled by Ormat; and they are proposed on adjoining parcels, which are leased or owned by Ormat.

The Complaint is brought pursuant to Section 1231. Pursuant to the procedures set forth in Section 1231:

Commission Response to the Complaint filed pursuant to Section 1231

1. In accordance with Section 1232(a), the Energy Commission Chairman or committee assigned to this proceeding must take either of the following actions within 30 days after the Complaint was received by the Energy Commission Chief Counsel, which was June 30, 2011:
 - a. Dismiss the matter upon a determination of insufficiency or lack of merit of the pleadings (specifying whether the dismissal is with or without prejudice); or

- b. Serve the Complaint upon Ormat and other persons identified in Section 1231(b)(7).
2. The Dockets Unit is directed to immediately serve the Complaint on Ormat and other persons identified in Section 1231(b)(7).
3. Within twenty-one (21) days after service, Ormat shall file and serve an Answer with CURE, the Energy Commission, and all persons identified in Sections 1231(b)(7) and 1232(a)(2).
4. Energy Commission Staff is directed to prepare a written assessment of the Complaint and the Answer. The staff assessment shall be filed and served by first class mail on CURE, the Energy Commission, and all persons identified in Sections 1231(b)(7) and 1232(a)(2) within seven (7) days of service of the Answer.
5. The governing procedures for the resolution of the Complaint filed pursuant to Section 1231 shall be those codified at Sections 1200 through 1236.5, together with the informal hearing procedures in Article 10 of the Administrative Procedures Act (Government Code, §§ 11445.10 through 11445.60).

It is so **ORDERED**.

Dated: July 26, 2011, at Sacramento, California.

Original Signature in Dockets
ROBERT B. WEISENMILLER
Chairman
California Energy Commission



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Docket No. 11-CAI-02

PROOF OF SERVICE

(Revised 7/22/2011)

PROJECT OWNER

Ormat Nevada, Inc.
980 Greg Street
Sparks, NV 89431-6039

PETITIONER

California Unions for Reliable Energy
c/o Adams Broadwell Joseph &
Cardozo
Marc D. Joseph
Tanya A. Gulesserian
Elizabeth Klebaner
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660
mdjoseph@adamsbroadwell.com
tgulesserian@adamsbroadwell.com
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INTERESTED AGENCIES

Imperial County Planning and
Development Services
801 Main Street
El Centro, CA 92243

Imperial County Air Pollution Control
District
150 South 9th Street
El Centro, CA 92243-2801
Fax (760) 353-9904

Imperial Irrigation District
333 E. Barioni Boulevard
Imperial, CA 92251
Fax: (760) 339-9262

**ENERGY COMMISSION –
DECISIONMAKERS**

Robert B. Weisenmiller
Chairman
RWeisenm@energy.state.ca.us

**ENERGY COMMISSION – PUBLIC
ADVISER**

Jennifer Jennings
Public Adviser
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publicadviser@energy.state.ca.us

**ENERGY COMMISSION CHIEF
COUNSEL****

Michael J. Levy
Chief Counsel
***Service only required for specific
filings as designated in Title 20*
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

DECLARATION OF SERVICE

I, Teraja Golston, declare that on, July 27, 2011, I served and filed copies of the attached (11-CAI-02) Service of Complaint and Scheduling Order dated July 27, 2011. 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/_____]. The document has been sent to 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:

- Served electronically to all email addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or 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."
- Pursuant to the Order, a copy of the *Verified Complaint and Request for Investigation* has been served on Ormat Nevada, Inc. and the "Interested Agencies" listed on the Proof of Service.

AND

For filing with the Docket Unit at the Energy Commission:

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

OR

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

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-CAI-02
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 Signature in Dockets

Teraja` Golston