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11-CAI-03

DATE SEP 01 2011

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STATE OF CALIFORNIA

Energy Resources Conservation And Development Commission

IN THE MATTER OF THE COMPLAINT AGAINST
DyoCORE, INC. BROUGHT BY
ENERGY COMMISSION STAFF

DOCKET NO.: 11-CAI-03

DATED: SEPTEMBER 1, 2011

REQUEST FOR EXTENSION OF TIME TO FILE WRITTEN ASSESSMENT OF ANSWER

California Energy Commission ("Energy Commission") staff hereby request a brief extension of time from September 1, 2011 to September 14, 2011 to file a written assessment of the answer prepared by DyoCore, Inc. ("DyoCore") in the proceeding on the complaint filed against DyoCore by staff ("DyoCore Complaint Proceeding"). This extension will allow staff to focus on ongoing discussions with the parties that might result in a collective proposal for a fair, equitable, and expeditious resolution of this matter.

Background

On July 26, 2011, staff filed a complaint against DyoCore that alleges DyoCore violated the intent of the Energy Commission's Emerging Renewables Program ("ERP") and, in particular, Appendix 3, Section (A)(2) of the ERP Guidebook by submitting information to the Commission that grossly overstated the performance of the DyoCore SolAir turbine ("Complaint").

On July 29, 2011, the Energy Commission issued a "Service of Complaint and Scheduling Order" that directed the Chief Counsel's Office to immediately serve the Complaint on DyoCore and all persons identified in the Complaint pursuant to title 20, section 1231 of the California Code of Regulations, subdivision (b)(7) as potentially affected by the relief sought.¹ The Service of Complaint of Scheduling Order also directed staff, pursuant to section 1233.5, to prepare a written assessment of the answer filed by DyoCore. Section 1233.5 provides that the staff assessment shall be filed and served by first class mail on the commission and all persons identified pursuant to sections 1231, subdivision (b)(7) and section 1232, subdivision (a)(2) within 7 days of service of the answer provided pursuant to section 1233.

On August 25, 2011, DyoCore filed and served its answer to the Complaint in accordance with the requirements set forth in section 1233. Thus, staff's written

¹ References to section numbers are to those in title 20 of the California Code of Regulations unless otherwise noted.

assessment of DyoCore's answer must be filed and served 7 days later, on September 1, 2011.

On August 31, 2011, the Renewables Committee issued a "Notice of Prehearing Conference" in the DyoCore Complaint Proceeding that requires each party to file a Prehearing Conference Statement by 12 noon on Wednesday, September 14, 2011. The Prehearing Conference Statement must include a discussion of the key issues in the case.

Request

Staff is currently engaged in discussions with the respondent, DyoCore, and other parties affected by the relief sought in the Complaint to identify areas of common interest and explore the possibility of a collective proposal to the Renewables Committee for a fair, equitable, and expedient resolution of this matter. As these discussions are ongoing with numerous parties, this effort requires a substantial commitment of staff resources. Given that all parties have expressed an interest in reaching an expeditious resolution of this matter, staff requests the ability to prioritize its resources towards the development of a collective proposal by extending the date upon which it must file its written assessment of DyoCore's answer.

Therefore, staff respectfully requests that its written assessment of DyoCore's answer be prepared in conjunction with its Prehearing Conference Statement, and in particular, staff's discussion of the key issues in the case, and filed in accordance with the prescribed deadline of 12 noon, Wednesday, September 14, 2011.

Respectfully submitted,

/S/

Jonathan Knapp
Staff Counsel