

**CALIFORNIA ENERGY COMMISSION**

1516 NINTH STREET, Rm. 100  
SACRAMENTO, CA 95814-5512  
(916) 651-2020  
[rrenaud@energy.state.ca.us](mailto:rrenaud@energy.state.ca.us)



September 16, 2011

Ms. Jane E. Luckhardt  
Downey Brand Attorneys LLP  
621 Capitol Mall, 18th Floor  
Sacramento, California 95814

<b>DOCKET</b>	
<b>11-CAI-03</b>	
DATE	SEP 16 2011
RECD.	SEP 19 2011

Re: In the Matter of the Complaint against DyoCore, Inc. brought by Energy  
Commission Staff (Docket No. 11-CAI-03)

Dear Ms. Luckhardt:

Your letter dated September 8, 2011, addressed to Chairman Weisenmiller and Chief Counsel Michael Levy but with the salutation "Dear Committee Members," was referred to me for reply.

I will begin by pointing out that your letter is an ex parte communication with a decision-maker, which is impermissible under California law (see, e.g. California Government Code section 11430.10). You were advised of the applicability of ex parte rules in an email exchange you had with Mr. Levy on August 4, 2011; at that time you indicated your understanding that you could communicate about the DyoCore matter with Energy Commission staff as an independent party including staff attorneys who represent the staff, but that further communication with Commissioners and their advisors must be subject to the ex parte rules.

Thus, pursuant to Government Code section 11430.5, your letter is being docketed and served upon all parties in this proceeding to notify them that the communication has occurred and been made a part of the record.

With regard to the substance of your letter, the Committee cannot comment because the matter, in which your client has become a party, is pending before it and the legal and factual issues have not yet been finally resolved.

With regard to the procedural implications of your letter, I wish simply to point out that, as a party in the DyoCore matter, your client must pursue its administrative remedies before seeking recourse elsewhere. I encourage you to participate fully in this proceeding. Shortly a new notice setting a date for the Prehearing Conference will be issued, and it will list several categories of information that the Committee is interested in receiving from the parties. While I cannot give you the entire list at this time, I can

advise you that one area of interest will be the pricing methodology used by the distributors of DyoCore products, including your client.

I look forward to working with you on this complex matter.

Very Truly Yours,

Original signed by: \_\_\_\_\_

Raoul A. Renaud  
Hearing Adviser II

cc: Robert Weisenmiller, Chairman  
Carla Peterman, Commissioner and Presiding Member  
James D. Boyd, Vice Chair and Associate Member  
Michael J. Levy, Chief Counsel  
Gabe Herrera, Staff Counsel  
Jonathan Knapp, Staff Counsel



**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**

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

***Docket No. 11-CAI-03  
(Revised 9/16/2011)***

**COMPLAINANT**

California Energy Commission  
Robert P. Oglesby  
Executive Director  
1516 Ninth Street  
Sacramento, CA 95814  
*e-mail service preferred*  
[roglesby@energy.state.ca.us](mailto:roglesby@energy.state.ca.us)

California Energy Commission  
Payam Narvand  
Program Manager  
1516 Ninth Street  
Sacramento, CA 95814  
*e-mail service preferred*  
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**COUNSEL FOR COMPLAINANT**

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Senior Staff Counsel  
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California Energy Commission  
Jonathan Knapp  
Staff Counsel  
1516 Ninth Street  
Sacramento, CA 95814  
*e-mail service preferred*  
[jknapp@energy.state.ca.us](mailto:jknapp@energy.state.ca.us)

**RESPONDENT**

DyoCore, Inc.  
Ralph Bettencourt, CEO  
David Raine, CTO  
3125 Tiger run Court, #104  
Carlsbad, CA 92010  
[ralph@dyocore.com](mailto:ralph@dyocore.com)  
[dave@dyocore.com](mailto:dave@dyocore.com)

**INTERVENORS**

Solar Point Resources Inc.  
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621 Capitol Mall, 18th Floor  
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**INTERESTED  
ENTITIES/AGENCIES**

Bay Area Energy Solutions  
1326 Marsten Road  
Burlingame, CA 94010  
[www.bayenergy.com](http://www.bayenergy.com)

California Solar Systems  
1411 Rusch Court  
Santa Rosa, CA 95401  
[barryw@855casolar.com](mailto:barryw@855casolar.com)

Synergy Corp.  
863 N Bush Avenue  
Clovis, CA 93611  
[marlin.magic@sbcbglobal.net](mailto:marlin.magic@sbcbglobal.net)

Crizer Wind Energy, Inc.  
1191 4<sup>th</sup> Street  
Los Osos, CA 93402  
[crizerwindenergy@sbcbglobal.net](mailto:crizerwindenergy@sbcbglobal.net)

My Wind Power  
4037 Phelan Road, A267  
Phelan, CA 92371  
[www.info@mywindpower.biz](http://www.info@mywindpower.biz)

Energy Pros  
2235 Solitude Court  
Rocklin, CA 95765  
[brian@energyproslc.com](mailto:brian@energyproslc.com)

Wind Solar Solutions  
420 Avalon Street  
Morro Bay, CA 93442  
[corky@windandsolarsolutions.com](mailto:corky@windandsolarsolutions.com)

CA Green Team  
720 North China Lake Boulevard  
Ridgecrest, CA 93555  
[tammy@cagreenteam.com](mailto:tammy@cagreenteam.com)  
[rayw@cagreenteam.com](mailto:rayw@cagreenteam.com)

Prevailing Wind Power  
324 N Gertruda  
Redondo Beach, CA 90277  
[bob@prevailingwindpower.com](mailto:bob@prevailingwindpower.com)

**INTERESTED ENTITIES/AGENCIES  
(cont.)**

Desert Power, Inc.  
77380 Michigan Dr.  
Palm Desert, CA 92211

San Diego Small Wind  
3125 Tiger Run Ct. #103  
San Marcos, CA 92009

Apple Acres, Inc. DBA Gridnot  
P.O. Box 645  
Lucerne Valley, CA 92356  
[info@gridnot.com](mailto:info@gridnot.com)

**ENERGY COMMISSION –  
DECISIONMAKERS**

Carla Peterman  
Commissioner and Presiding  
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Raoul Renaud  
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Public Adviser  
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### DECLARATION OF SERVICE

I, Maggie Read, declare that on September 19, 2011, I served and filed copies of the attached Letter to Jane Luckhardt from Raoul Renaud, dated September 16, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, 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/renewables/emerging\\_renewables/11-cai-03/](http://www.energy.ca.gov/renewables/emerging_renewables/11-cai-03/)].

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 or Chief Counsel, as appropriate, in the following manner:

*(Check all that Apply)*

For service to all other parties:

- ☐ Served electronically to all e-mail addresses on the Proof of Service list;
- ☐ Served by delivering on this date, either personally, or for mailing with the U.S. 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 "e-mail service preferred."

**AND**

For filing with the Docket Unit at the Energy Commission:

- ☒ by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**
- ☐ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**

Attn: Docket No. 11-CAI-03  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

***OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:***

- ☐ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission  
Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
[mlevy@energy.state.ca.us](mailto:mlevy@energy.state.ca.us)

I declare under penalty of perjury under the laws of the State of California 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**