

STATE OF CALIFORNIA
Energy Resources Conservation and
Development Commission

DOCKET

11-CAI-1

DATE SEP 29 2011

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In the Matter of:

Complaint and Investigation

CALICO SOLAR PROJECT
Calico Solar, LLC

Docket No. 11-CAI-01

OPPOSITION TO BNSF'S REQUEST TO CONTINUE HEARING, DATED OCTOBER
3, 2011 AND RESPONSE TO STAFF ASSESSMENT OF BNSF'S VERIFIED
COMPLAINT TO REVOKE CERTIFICATION

September 29, 2011

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STATE OF CALIFORNIA
Energy Resources Conservation and
Development Commission

In the Matter of:

Complaint and Investigation

CALICO SOLAR PROJECT
Calico Solar, LLC

Docket No. 11-CAI-01

**OPPOSITION TO BNSF’S REQUEST TO CONTINUE HEARING, DATED
OCTOBER 3, 2011 AND RESPONSE TO STAFF ASSESSMENT OF BNSF’S
VERIFIED COMPLAINT TO REVOKE CERTIFICATION**

For the reason’s stated in K Road Calico Solar LLC’s¹ (“Calico’s”) September 1, 2011 Answer to Verified Complaint to Revoke Certification and its September 28, 2011 Hearing Statement, BNSF’s Complaint is wholly lacking in merit and should be dismissed. There is no reason to postpone either the evidentiary hearing scheduled for October 3, 2011 or the parties’ responses to the September 28, 2011 Staff Assessment and further delay resolution of BNSF’s meritless allegations, as requested by BNSF in its September 29, 2011 Request to Continue Hearing, Dated October 3, 2011 and Response to Staff Assessment of BNSF’s Verified Complaint to Revoke Certification” (“Request”).

In its Request, BNSF asks the Committee for a continuance of the two imminent deadlines in light of Mr. O’Shea’s September 29, 2011 letter advising the Commission that Stirling Energy Systems (“SES”) has filed for bankruptcy. The fact that SES filed for bankruptcy on September 22, 2011 is wholly irrelevant to the factual allegations in this

¹ As provided in a notice to all parties filed on August 31, 2011, Calico recently changed its name from Calico Solar, LLC to K Road Calico Solar LLC.

proceeding. BNSF's allegations are that there were material false statements made to the Commission *in the past* during certification and amendment proceedings. Nothing in the Complaint, subsequent pleadings by the parties, or any Committee Order in this proceeding suggest that the current business situation for SES is in any way relevant to BNSF's allegations regarding Calico's prior statements to the Commission. The recent development of SES's bankruptcy therefore should not impact BNSF's response to the Staff Assessment, nor its preparation for the October 3, 2011 hearing. There is no reason for either to be continued to a later date.

Calico respectfully requests that BNSF's Request is denied, and that both the September 30, 2011 deadline for BNSF, Mr. Jackson, and Calico to respond to the Staff Assessment and the October 3, 2011 hearing remain in place.

Date: September 29, 2011

Respectfully submitted,



Ella Foley Gannon
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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**FOR THE CALICO SOLAR PROJECT
COMPLAINT AND INVESTIGATION**

**Docket Nos. 11-CAI-01
(Revised 9/15/11)**

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DECLARATION OF SERVICE

I, Margaret Pavao, declare that on September 29, 2011, I served and filed copies of the attached Opposition to BNSF's Request to Continue Hearing, Dated October 3, 2011 and Response to Staff Assessment of BNSF's Verified Complaint to Revoke Certification, dated September 29, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulations, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[www.energy.ca.gov/sitingcases/calicosolar/compliance/index.html]**.

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 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."

AND

FOR FILING WITH 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

Attn: Docket No. 11-CAI-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
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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:

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I declare under penalty of perjury under the laws of the State of California that 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.


