August 11, 2010

California Energy Commission
Dockets Unit
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: GENESIS SOLAR, LLC SUPPLEMENTAL REPLY TO THE CURE’S REPLY BRIEF CONCERNING TRANSMISSION GENESIS SOLAR ENERGY PROJECT DOCKET NO. (09-AFC-8)

Enclosed for filing with the California Energy Commission is the original of GENESIS SOLAR, LLC SUPPLEMENTAL REPLY TO THE CURE’S REPLY BRIEF CONCERNING TRANSMISSION, for the Genesis Solar Energy Project (09-AFC-8).

Sincerely,

Ashley Garner
CURE has violated the Committee Order by including in its Reply Brief a new issue relating to Transmission System Impacts that were not included in its Opening Brief on Day 3 topics, nor raised by any other Parties’ Opening Briefs on Day 3 Topics. Notwithstanding that blatant sandbagging tactic, which this counsel must now expect in all future proceedings where CURE participates, Genesis has prepared this response under severe time constraints in order to comply with the Committee’s Orders on the timing of briefs.

CURE alleges that the Committee cannot approve the GSEP because it believes that it has not analyzed the “whole of the action”. CURE alleges that the upgrades identified in the Phase II Transmission Cluster Study are part of the whole of the action and therefore the Commission must do an environmental review of such activities. CURE outlines the case law regarding its contentions and Genesis does not disagree with the concepts CURE alleges are supported by those cases. Although due to the time constraints we have not been able to verify them.

CURE contends that the downstream upgrades are part of the GSEP or are foreseeable in the same manner that a second phase of development is foreseeable or in the same manner as expansion of a sewer plant was necessary to serve a planned subdivision. CURE fails to distinguish one fundamental fact which has been articulated by Genesis counsel at several recent status conferences. That fact is that the upgrades CURE claims are a result of the GSEP are not. If the GSEP is not constructed, those upgrades that CURE claims are part of the “whole of the action” will be constructed anyway. If the GSEP is constructed those upgrades will be also be constructed. This is
a byproduct of the fact that the interconnection process has now moved from an individual analysis to a cluster analysis with a substantial revision in the CalISO tariff. It is undisputable that any upgrade that is constructed will be subject to full permitting and environmental review by the California Public Utilities Commission (CPUC) upon application by Southern California Edison (SCE). CURE claims this distinction is without merit because the GSEP needs the upgrades to interconnect. That is untrue. If the GSEP were analyzed separately, such an analysis would clearly show substantially less, or maybe no newly planned upgrades. What is required to interconnect the GSEP is pure speculation and for the reasons articulated in earlier briefs, CEQA prohibits speculative analyses.

The Committee should not be swayed by CURE’s last minute attempt to further instill confusion into the process. Genesis counsel has raised this exact issue earlier at appearances before this Committee and CURE sat on its hands again rather than engage in an open debate before the Committee to seek resolution. CURE does not seek resolution and we urge the Committee to disregard CURE’s tactics.

Dated: August 11, 2010

/original signed/

Scott A Galati
Counsel to Genesis Solar, LLC
APPLICATION FOR CERTIFICATION FOR THE  
GENESIS SOLAR ENERGY PROJECT  

Docket No. 09-AFC-8  
PROOF OF SERVICE  
(Revised 8/5/10)  

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DECLARATION OF SERVICE

I, Ashley Garner, declare that on August 11, 2010, I served and filed copies of the attached: GENESIS SOLAR, LLC SUPPLEMENTAL REPLY TO THE CURE’S REPLY BRIEF CONCERNING TRANSMISSION dated August 11, 2010. 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://ww.energy.ca.gov/sitingcases/genesis_solar].

The documents have been sent to both 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:

__X__ sent electronically to all email addresses on the Proof of Service list;

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__X__ by delivering on this date, 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.”

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FOR FILING WITH THE ENERGY COMMISSION:

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

OR

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

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 09-AFC-8
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.

Ashley Garner