



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE **FILED**

STATE OF CALIFORNIA

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In the Matter of the Application of SOUTHERN)
CALIFORNIA EDISON COMPANY (U 338-E))
for a Certificate of Public Convenience and)
Necessity for the Eldorado-Ivanpah Transmission)
Project)

Application No. 09-05-027
(Filed May 28, 2009)

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
RESPONSE TO CENTER FOR BIOLOGICAL DIVERSITY'S REQUEST FOR
SUPPLEMENTAL BRIEFING AND REQUEST FOR OFFICIAL NOTICE**

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Dated: **November 10, 2010**

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STATE OF CALIFORNIA**

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The parties have fully briefed the issues regarding application of California Public Utilities Code Section 399.2.5 to the Eldorado-Ivanpah Transmission Project (EITP) and adequacy of the EITP environmental review under the California Environmental Quality Act (CEQA). No changes to the law or to the facts set forth in the evidentiary record have occurred since the parties submitted their opening and reply briefs. The Silver State North project does not propose to and will not interconnect with EITP. The supplemental briefing requested by Center for Biological Diversity (CBD) is therefore unnecessary either for the parties to present their arguments or for the California Public Utilities Commission (Commission) to make a fully informed decision on EITP. It serves only to delay a decision on EITP. For these reasons, Southern California Edison Company (SCE) respectfully requests that the Commission deny CBD’s request for supplemental briefing.

CBD relies on an email exchange between counsel for BrightSource Energy, Inc. (BrightSource) and an advisor to Commission President Peevey served on October 18, 2010, to justify its request for supplemental briefing. In this email exchange, BrightSource counsel properly distinguishes the Commission’s analysis of the presumption of need under Section 399.2.5 from the standard for determining whether projects are “connected actions” under the National Environmental Policy Act (NEPA), which applies to environmental review by federal agencies but not by state agencies such as the Commission. BrightSource counsel then applies this distinction to EITP, explaining that the existence of Los Angeles Department of Water and Power (LADWP) transmission facilities in the Ivanpah Dry Lake Area does not affect the Commission’s analysis of the presumption of need under Section 399.2.5, and should not be considered as an alternative under CEQA or NEPA.¹

None of these statements trigger the need for supplemental briefing because the parties have already fully briefed: (1) application of Section 399.2.5 to EITP,² (2) the CEQA alternatives analysis in the Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS),³ and (3) the proper scope of the environmental review in the Draft EIR/EIS.⁴ As already explained in the briefing in this proceeding, there is no relation between the findings that can be made under Section 399.2.5 and other solar projects that CBD argues (incorrectly)

¹ The Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS), which was available to all parties before and during the briefing process, accounts for existing LADWP transmission facilities in the Ivanpah Dry Lake Area. *See* Draft EIR/EIS at 2-10 to 2-12.

² BrightSource Opening Brief at 4-10; BrightSource Reply Brief at 13-19; Division of Ratepayer Advocates (DRA) Opening Brief at 7-13; SCE Opening Brief at 6-25; SCE Reply Brief at 5-20.

³ CBD Opening Brief at 14-19; CBD Reply Brief at 4-5; DRA Opening Brief at 8-9; SCE Reply Brief at 57-66.

⁴ CBD Opening Brief at 5-8; CBD Reply Brief at 1; SCE Reply Brief at 31-40.

are “connected actions” under NEPA. Two separate standards apply to whether a transmission line meets the presumption of need under Section 399.2.5 and whether two projects are considered “connected actions” under NEPA. As SCE explained in its reply brief, the term “connected action” is a term of art specific to NEPA whose standard does not apply to the Commission’s environmental review of EITP under CEQA or to the Commission’s analysis of the presumption of need for EITP under Section 399.2.5.⁵

The parties’ briefing *on the proper scope of the CEQA review* and the treatment in the Draft EIR/EIS of renewable energy projects in the Ivanpah Dry Lake Area already addresses CBD’s meritless “segmentation” argument that it now uses as a ground for supplemental briefing. That the Bureau of Land Management (BLM) issued a Record of Decision (ROD) for the Silver State Solar North project is not grounds for supplemental briefing. The Draft EIR/EIS for EITP properly analyzes impacts of the Silver State North project as cumulative impacts to EITP, as already discussed in SCE’s reply brief.⁶ BLM’s issuance of the ROD approving the Silver State North project does not affect that analysis, particularly because this project does *not* propose to interconnect to EITP.⁷ SCE respectfully requests that the Commission deny CBD’s request for supplemental briefing.

⁵ See SCE Reply Brief at 31 n.33. The Final EIR/EIS for EITP, which was released on November 1, 2010, includes the analysis of the Silver State North project from the Draft EIR/EIS.

⁶ SCE Reply Brief at 38-40.

⁷ Silver State Solar Energy Project Final Environmental Impact Statement at ES-1, 1-1, 2-1, 2-29.

Dated: November 10, 2010

Respectfully submitted,

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/s/ Laura A. Godfrey

By: Laura A. Godfrey

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO CENTER FOR BIOLOGICAL DIVERSITY'S REQUEST FOR SUPPLEMENTAL BRIEFING AND REQUEST FOR OFFICIAL NOTICE on all parties identified on the attached service list. Service was effected by one or more means identified below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address.
First class mail will be used if electronic service cannot be effectuated.
Executed this 10th Day of November 2010, at Rosemead, California.

/s/ Andrea Moreno

By: Andrea Moreno

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Utilities Commission

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CALIFORNIA PUBLIC UTILITIES COMMISSION

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