

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of San Diego
Gas & Electric Company (U 902-E) for a
Certificate of Public Convenience and Necessity
for the Sunrise Powerlink Transmission Project

Application No. 06-08-010
(Filed August 4, 2006)

**RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY TO CBD JULY 1, 2009
MOTION TO REQUEST JUDICIAL NOTICE OF "NEW CAISO DECISION"**

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July 1, 2009

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Pursuant to Commission Rule 11.1(e), San Diego Gas & Electric Company (“SDG&E”) hereby responds to the “Motion to Request Judicial Notice, in Regard to D.08-12-058 of New California Independent System Operator Corporation¹ Decision” (“Motion”) filed July 1, 2009 by the Center for Biological Diversity and Sierra Club (collectively, “CBD”). This motion seeks judicial notice of a press release and agenda item concerning the CAISO Board of Governors’ approval of a transmission upgrade that would access remote renewable generation facilities. In addition, the motion attaches a Federal Energy Regulatory Commission (“FERC”) decision issued nearly two years before the statutory deadline for rehearing applications in this proceeding. Indeed, this is the fourth such motion filed by CBD seeking to lodge FERC decisions with the Commission in support of CBD’s rehearing application.² As with the others,

¹ Referred to herein as the “CAISO.”

² CBD filed a *Motion to Supplement the Application of ...[CBD] for Rehearing of D.08-12-058* (March 16, 2009), which was rejected by the Commission because “the Docket Office has received a Directive from the Commission’s Legal Division that since the time for filing application for rehearing has expired, supplement to rehearing application cannot be accepted for filing.” Subsequently, on March 26 and June 16, 2009, CBD filed motions with identical titles seeking “judicial” notice of recent FERC decisions. SDG&E responded separately to these earlier motions.

SDG&E opposes the motion, because the subject decisions are not “relevant to the rehearing proceeding in D.08-12-058....” Motion at 1.

The motion seeks official notice of a press release and agenda item concerning the conditional CAISO Board of Governors approval, under the CAISO FERC tariff, of a transmission upgrade which will access the Tehachapi renewable energy zone. This CAISO action does nothing to illuminate the issues CBD raises on rehearing, for three reasons. First, the CAISO lacks authority to site transmission. Second, according to the agenda item, the approval is conditional, subject to demonstration of commercial interest in the line and an evaluation of the cost impact to the CAISO revenue requirement. Third, nothing in the offered material suggests that the project developer has made any binding commitment to import specific renewable energy resources.

Indeed, if anything, the cited CAISO action supports the Commission’s approval of the Sunrise Powerlink. The press release recites that the CAISO’s action “solves the chicken-or-egg dilemma” by basing approval of transmission facilities on the ability to access remote areas of renewable resource potential. In this case, the facility approved would reach the Tehachapi resource area, “identified as having the largest potential annual energy output of all evaluated zones, with an estimated 25,091 GWh per year.” Press release at 1.³

Similarly, one of the bases for this Commission’s approval of Sunrise was the project’s ability to access the renewable resource potential of the Imperial Valley region. *See* D.08-12-058 at 6-7, 8, 263, 265, 270-271 and Finding of Fact 28. The same report apparently cited in the press release indicates that the region in which the Sunrise Powerlink is located has incremental

³ It appears from the amount of power attributed to the Tehachapi zone that the press release cites to the Renewable Energy Transmission Initiative’s (“RETI”) January, 2009 Phase 1B Final Report. RETI documents are available at: <http://www.energy.ca.gov/reti/documents/index.html>.

renewable energy development potential of 36,606 GWh.⁴ Siting Sunrise resolves the chicken-and-egg conundrum facing potential renewable generation projects in this region.

As for the FERC decision offered by the motion,⁵ it issued nearly two years before the statutory deadline for rehearing in this matter (January 23, 2009). *See* P.U. Code § 1731 (b) (1). The case could have been brought to the Commission’s attention in CBD’s rehearing application, and it cannot evade a jurisdictional deadline under the guise of seeking official notice.

CONCLUSION

As with its earlier efforts to lodge FERC decisions in this proceeding, the decisions CBD cites are not relevant to this Commission’s rehearing deliberations, and are not the proper subject for “judicial” notice in this case. The motion should be denied.

Respectfully submitted,

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⁴ *Id.* This region is comprised of the Imperial North-A, San Diego South, Imperial North-B, Imperial South, Imperial East and Baja-La Rumerosa Competitive Renewable Energy Zones (“CREZ”). Since the issuance of the January, 2009 report, there have been revisions to the estimates of renewable energy development potential and a new Baja-Caterina CREZ has been added, nearly doubling the amount of renewable energy potential from the northern Baja area.

⁵ *California Independent System Operator Corp.*, 119 FERC ¶ 61,061 (April 19, 2007).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY TO CBD JULY 1, 2009 MOTION TO REQUEST JUDICIAL NOTICE OF “NEW CAISO DECISION”** on all parties identified in Docket No. A.06-08-010 by U.S. mail and electronic mail, and by Federal Express to the assigned Commissioner(s) and Administrative Law Judge(s).

Dated at San Diego, California, this 1st day of July, 2009.

/s/ JOEL DELLOSA
Joel Dellosa



California Public
Utilities Commission

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