



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

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In the Matter of the Application of The Nevada)
Hydro Company for a Certificate of Public)
Convenience and Necessity for the Talega-)
Escondido/Valley-Serrano 500 kV Interconnect)
Project.)

Application 10-07-001
(Filed July 6, 2010)

**JOINT RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO MOTION FOR
ACCEPTANCE OF LATE FILED COMMENTS ON PHASE 1 SCOPING MEMO
RULING FILED BY THE CENTER FOR BIOLOGICAL DIVERSITY**

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Dated: **April 6, 2011**

**JOINT RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO MOTION FOR
ACCEPTANCE OF LATE FILED COMMENTS ON PHASE 1 SCOPING MEMO
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Pursuant to Rule 11.1(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Edison Company (“SCE”) and San Diego Gas & Electric Company (“SDG&E”) (collectively “Respondents”) respond to the Motion for Acceptance of Late Filed Comments of Phase 1 Scoping Memo Ruling (“Motion”), filed on March 22, 2011, by the Center for Biological Diversity (“CBD”).¹

Respondents support CBD’s primary position that the intervenor compensation provisions of the California Public Utilities Code must apply to The Nevada Hydro Company (“TNHC”), if TNHC is allowed to move forward with its application.² TNHC seeks to avoid the intervenor compensation statutes by claiming that Code provisions favorable to TNHC apply to TNHC, and unfavorable ones do not.³ However, this argument is untenable: the provisions of the California Public Utilities Code TNHC relies upon to seek a CPCN cannot be read in

¹ Motion for Acceptance of Late Filed Comments on Phase 1 Scoping Memo Ruling, *In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect*, No. A.10-07-001, at *passim* (Cal. Pub. Util. Comm’n, *fld.* March 22, 2011) (hereinafter “Motion”).

² Attachment 1 to Motion, *supra* note 1 (Comments of the Center for Biological Diversity, Santa Ana Mountains Task Force of the Sierra Club, and Friends of the Forest and the Santa Rosa Plateau on the Proposed Surety Bond Pursuant to the Phase 1 Scoping Memo Ruling), at 3-4; Cal. Pub. Util. Code §§ 1801, 631.

³ *E.g.*, Brief of The Nevada Hydro Company in Response to the Administrative Law Judge’s Ruling Establishing Date for Service of Supplemental Testimony and Setting Briefing Dates Dated October 6, 2010, *In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect*, No. A.10-07-001 (Cal. Pub. Util. Comm’n, *fld.* Nov 19, 2010), at 4-7, 18-20 (TNHC first asserting that it may seek a CPCN under the Public Utilities Code, then asserting that the intervenor compensation provisions of **the same code** do not apply to TNHC).

isolation.⁴ Instead, they must be read within the context of a greater statutory scheme that envisions the applicant paying certain costs, regardless of the proceeding's outcome.⁵ Either both sets of provisions apply to TNHC, or none of them do.⁶ Either the Commission's jurisdiction extends to both aspects of TNHC's application, or it extends to neither.

Respondents, however, do not support CBD's alternate position suggesting that "[an] award could be paid out of the general intervenor compensation fund[.]"⁷ As there is no such fund, it appears that CBD is seeking a form of financial guarantee that is not provided for by the Public Utilities Code. Respondents emphasize that neither SCE nor SDG&E should be responsible for paying intervenors for the costs intervenors incur in adjudicating a transmission project that neither utility initiated; that responsibility is solely TNHC's. Existing public utility ratepayers should not be required to act as financial guarantors for failed **third party** CPCN applications.

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⁴ *E.g.*, Cal. Pub. Util. Code § 1001 (authorizing applications for CPCNs), § 1801 & § 631 (compensation provisions). SCE and SDG&E reserve the right to argue that Section 1001 only applies to existing electrical corporations with existing electric plants.

Judicial authority dictating that statutes must be read within the context of a greater statutory scheme include: *Smith v. Superior Ct.*, 39 Cal. 4th 77, 83-93 (2006) ("We do not construe statutes in isolation but rather read every statute with reference to the entire scheme of law of which it is part so that the whole may be harmonized and retain effectiveness") (internal citations and quotations omitted); *People v. Superior Ct. (Johannes)*, 70 Cal. App. 4th 558, 566 (1999) ("We cannot interpret the statutes in a way that renders one of them entirely surplusage").

⁵ *See* sources cited, *supra* note 4.

⁶ *See* sources cited, *supra* note 4. This argument is addressed more thoroughly in the following filings: Reply Brief of the Southern California Edison Company (U 338-E) on Threshold Issues, *In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect*, No. A.10-07-001 (Cal. Pub. Util. Comm'n, *fld.* December 10, 2010), at 3-5; and at Frontlines Reply Brief on Threshold Issues, *In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect*, No. A.10-07-001 (Cal. Pub. Util. Comm'n, *fld.* December 10, 2010), at 1-3.

⁷ Motion, *supra* note 1, at 5.

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