

**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
MOTION TO REQUEST JUDICIAL NOTICE OF NEW FERC DECISION
IN REGARD TO REHEARING OF D.08-12-058**

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April 10, 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 of New FERC Decision in Regard to D.08-12-058” (“motion”) filed March 26, 2008 by the Center for Biological Diversity and Sierra Club (collectively, “CDB”). SDG&E opposes the motion, because the Federal Energy Regulatory Commission (“FERC”) decision that the motion asks the Commission to officially notice is not pertinent to “how ...[D.08-12-058] violates ...CEQA by failing to guarantee that at least a portion of the Sunrise line will be used to carry new sources of renewable energy,” nor does it “address...renewable energy issues.” Motion at 2.¹

Specifically, the motion attaches a recent FERC order regarding requests by two merchant transmission projects for permission to charge negotiated rates for transmission rights on the subject projects.² This decision is not a transmission siting case; it approves negotiated

¹ According to the email transmittal serving the subject motion, counsel for CBD was notified by the Commission’s Docket Office that CBD’s earlier “Motion to Supplement the Application of the Center for Biological Diversity and Sierra Club for Rehearing of D.08-12-058” (March 16, 2009) was rejected for filing 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.” SDG&E assumes that there is no need to respond to, and that the Commission will not consider, the rejected filing.

² *Chinook Power Transmission, LLC and Zephyr Power Transmission LLC*, 126 FERC ¶ 61,134 (February 19, 2009) (“FERC order”).

rates for a portion of two transmission lines. It does not support CBD’s positions at all; indeed, if anything, it reinforces the strength of the guarantees and commitments before this Commission that Sunrise will transmit substantial quantities of renewable energy.

The distinctions between the facts before the FERC and the Sunrise rehearing issues are fundamental. FERC had before it a request for *permission to negotiate* a precedent agreement, including transmission rates, with an unnamed wind developer, on a transmission project that has not been permitted in any state. This yet-to-be-negotiated agreement would (at least in the hopes of the FERC applicants) bind the wind developer to share to an unspecified extent such project development costs as obtaining permits and WECC ratings.³ Such negotiated rates would be limited to 50% of the total project capacity.⁴ FERC was presented with no commitments or guarantees at all from applicants that the line would be used to transmit renewable energy. Nor did FERC’s decision rely in any way on the fact that the applicants hoped to negotiate an agreement with an unidentified renewable generation developer.

In contrast, the record before this Commission shows that SDG&E has *executed* purchased power agreements (*i.e.*, “binding commitments”) for the bulk of the additional transfer capability provided by Sunrise (McClenahan, Ex. SD-37 at 2.6):

| | Capacity MW | Energy GWh |
|-----------------------|------------------------|-----------------------|
| Under Contract | | |
| Stirling I & II | 600 | 1298 |
| MMR I & II | 100 | 472 |
| Esmeralda I & II | 60 | 485 |
| SCE-Sempre | <u>250</u> | <u>722</u> |
| Total | 1010 | 2977 ⁵ |

³ *Id.* at paragraph 10 and n. 9.

⁴ *Id.* at paragraph 12.

⁵ The 2977 GWh referenced in this table does not include two other renewable projects located in the Imperial Valley that are under contract with PG&E and SCE. First, Resolution E-4041 (December 14, 2006), approved a power purchase (*footnote continued on to next page...*)

All of the foregoing contracts, with the exception of the second phase for Stirling⁶ and the Sempra-SCE contract (which has been submitted to the Commission), have been approved by the Commission (McClenahan, Ex. SD-139) and would, therefore, be subject to SDG&E's renewables replacement commitment adopted by the Commission in D.08-12-058 (at 265).

In sum, the Sunrise-dependent contracts *executed* by SDG&E account for a larger percentage of Sunrise capacity than the amounts for which applicants *hoped to negotiate* mere precedent agreements governing rates (which do not commit to *any* deliveries of renewable energy) for only 50% of the project capacity.

CONCLUSION

CDB misrepresents the pertinence of the cited FERC decision. In the case offered by CBD, FERC had before it only applicants' unilateral aspiration that one-half of a transmission project might be subject to a precedent agreement binding an unidentified generation developer to negotiated transmission rates and to an unspecified share of project permitting costs. In

(...*footnote continued from previous page*) contract filed by PG&E contemplating deliveries by IA Truckhaven I, LLC of 370 GWh from a 49 MW geothermal renewable plant expected to commence by July 2010. The Commission recognized that transmission congestion between IID's system and SP-15 would be mitigated by Sunrise and/or Greenpath North. *Id.* at 9. Second, by Advice Letter 1966-E, SCE filed for approval of a power purchase contract contemplating deliveries by Imperial Valley Bipower of 140 GWh of energy from a 20 MW baseload biomass-fueled plant expected to commence operation by May 2010.

⁶ The Stirling contract provides for a second phase at 300 MW, which is included in the 600 MW total, although this phase must be submitted for Commission approval. Resolution E-3965 (December 15, 2005). *See also*, McClenahan, Ex. SD-37 at 2.5-2.6 (describing following contracts: (1) Stirling Phase 1 (300 MW or 3.6% of SDG&E's retail sales); (2) Esmeralda San Felipe (20 MW or 0.9% of SDG&E's retail sales); (3) Esmeralda Truckhaven (40 MW or 1.8% of SDG&E's retail sales); (4) Bethel 1 (50 MW or 1.7% of SDG&E's retail sales); (5) Bethel 2 (50 MW or 0.9% of SDG&E's retail sales)). SDG&E also is negotiating with additional renewable energy developers in Imperial Valley. McClenahan, Ex. SD-36 at 12.11.

Sunrise, the Commission has before it a project with a CPCN, and with power purchase agreements executed with renewable developers and approved by the Commission for a larger percentage of Sunrise than FERC applicants sought to negotiate for their respective projects. And, the Sunrise contracts are reinforced by SDG&E's binding commitment to replace any contracts that fail with similar contracts from the Imperial Valley region.⁷ If the Commission takes official notice of this FERC decision, it should be for the proposition that SDG&E's commitments to use Sunrise to deliver renewable energy are robust indeed compared to the vague aspirations before the FERC cited by CBD.

Respectfully submitted,

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April 10, 2009

⁷ Such commitments are reinforced by other sources in the record demonstrating concrete developer interest in siting renewable generation in the Imperial Valley area. Most notable are the over 7000 MW of renewable energy projects in the Imperial Valley area in the CAISO Interconnection queue. Anderson, Ex. SD-37 at 2.4-2.5. In addition, IID testifies to more than 1800 MW of interconnection requests in its queue (Montaño, Ex. I-3 at 2 and T.3446:24-25) that could be assisted by Sunrise. *Accord*, Brady, T.6254:16-17; 27-28 and 6255:1-3. In sum, the massive developer interest in projects that would rely on Sunrise, as evidenced by executed contracts and interconnection applications supply robust assurances that Sunrise will be substantially devoted to importing renewable energy.

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 MOTION TO REQUEST JUDICIAL NOTICE OF NEW FERC DECISION IN REGARD TO REHEARING OF D.08-12-058** 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 10th day of April, 2009.

/s/ JOEL DELLOSA
Joel Dellosa



California Public
Utilities Commission

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CALIFORNIA PUBLIC UTILITIES COMMISSION

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