

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate Of Public Convenience & Necessity Valley-Rainbow 500kV Inter-Connect Project.

Application 01-03-036
(Filed March 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING REQUESTS FOR OFFICIAL NOTICE**

On February 7, 2003, Save Southwest Riverside County, the City of Temecula, and the Pechanga Development Corporation (collectively, SSRC *et al.*) filed a request for official notice of a cross-complaint filed by the California Department of Water Resources (CDWR) in Superior Court in San Diego County against Sempra Energy Resources. San Diego Gas and Electric (SDG&E) opposes the request for official notice as untimely, unfair and irrelevant.

California Evidence Code § 452 (d) provides that judicial notice may be taken of “[r]ecords of any court of this state.” Rule 73 of the Commission’s Rules of Practice and Procedure provides that “[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California.” Hence, the existence of the cross-complaint is a matter of which we may take official notice. SDG&E’s arguments go to how we should evaluate the existence of the cross-complaint, not whether it is a matter of which we may take official notice. SDG&E also argues that it is unfair to take official notice of the cross-complaint when we denied its motion to introduce new evidence after the record closed. SDG&E’s comparison is off base. It was proper to reject SDG&E’s

proffered “new evidence” because the parties had no opportunity to test that “evidence” through cross-examination or by offering contrary evidence since SDG&E did not also seek to reopen the record to hold evidentiary hearings on the new evidence. Here SSRC *et al.* have asked for official notice of a matter for which judicial notice may be taken by the courts rather than the introduction of new evidence without hearings. Granting the request for official notice of the cross-complaint does not establish the truth of the matters set forth therein. The request for official notice is granted.

On February 24, 2003, SSRC *et al.* filed a request for official notice of the California Energy Commission Final Staff Assessment of the Palomar Energy Project (01-AFC-24). SSRC *et al.* assert that the Final Staff Assessment constitutes an official act of the executive department of the state of California and thus qualifies under California Evidence Code § 452 (c) as a matter for which judicial notice may be taken. In this case, this document is a final staff product that has not yet been adopted by the California Energy Commission, thus, although we may take official notice of its existence, granting official notice does not establish the truth of the matters therein.

IT IS RULED that the February 7 and 24, 2003 requests for official notice by SSRC *et al.* are granted as described herein.

Dated March 4, at San Francisco, California.

/s/ Michelle Cooke

Michelle Cooke
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge’s Ruling Granting Requests for Official Notice on all parties of record in this proceeding or their attorneys of record.

Dated March 4, 2003, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission’s policy is to schedule hearings (meetings, workshops, *etc.*) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.