

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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 500kV Interconnect
Project.

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

**REPLY TO OPENING COMMENTS ON THRESHOLD ISSUES
BY ELSINORE VALLEY MUNICIPAL WATER DISTRICT**

JOHN E. BROWN
JENNIFER M. HALEY
BEST BEST & KRIEGER LLP

Attorneys for:
ELSINORE VALLEY MUNICIPAL WATER
DISTRICT

655 West Broadway, 15th Floor
San Diego, CA 92101
Phone: (619) 525-1330
Fax: (619) 233-6118
john.brown@bbklaw.com
jennifer.haley@bbklaw.com

December 10, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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 500kV Interconnect Project.

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

**REPLY TO OPENING COMMENTS ON THRESHOLD ISSUES
BY ELSINORE VALLEY MUNICIPAL WATER DISTRICT**

I.

INTRODUCTION

Pursuant to Administrative Law Judge (“ALJ”) Minkin’s Ruling Establishing Date for Service of Supplemental Testimony and Setting Briefing Dates on October 7, 2010 (“October 7, 2010 Ruling”), Elsinore Valley Municipal Water District (“EVMWD”) files this reply to opening comments on threshold issues. ALJ Minkin asked for briefing on four threshold issues, EVMWD will be providing reply comments on only the second threshold issue:

There was some discussion at the PHC as to whether the transmission line proposed by TNHC is a stand-alone project. Since TNHC has co-applied with Elsinore Valley Municipal Water District to the Federal Energy Regulatory Commission for a license to construct and operate the Lake Elsinore Advanced Pumped Storage (LEAPS) facility, does this imply that TNHC will own any generation generated by LEAPS? If so, must TNHC seek a CPCN at this Commission for LEAPS? If not, how is this different that the Helms pumped storage project?

The opening comments and The Nevada Hydro Company, Inc.’s (“TNHC”) Supplemental Testimony, filed on November 30, 2010, illustrate the continued deficiencies and uncertainty surrounding TNHC’s application. In particular, TNHC fails to adequately describe the whole of the project for purposes of its application, or to acknowledge that the Talega-Escondido/Valley-

Serrano 500 kV Interconnect (“TE/VS Project”) is only one component of the overarching Lake Elsinore Advanced Pumped Storage (“LEAPS”) project. The opening briefing and TNHC’s inadequate supplemental testimony underscores the need to hold another pre-hearing conference to allow the parties a forum to air their grievances with the instant application prior to the issuance of a scoping memo for this proceeding.

II.

RESPONSE TO OPENING COMMENTS ON THRESHOLD ISSUES

The opening briefing on threshold issues highlights the continued ambiguity and lack of clarity in TNHC’s application, especially in regard to the relationship between the TE/VS Project and the overarching LEAPS project.¹ EVMWD concurs with TNHC’s position that “[e]ven if Nevada Hydro becomes a public utility and owns generation generated by LEAPS, it still would not need to obtain a CPCN for LEAPS because the licensing of hydroelectric power projects is within the exclusive jurisdiction of the FERC.”² Although a Certificate of Public Convenience and Necessity (“CPCN”) from the Commission is not required for LEAPS, that is not the end of the issue for purposes of the instant application. As stated in EVMWD’s opening comments on threshold issues, the Commission’s consideration of the TE/VS Project should nonetheless include consideration of the broader LEAPS project.

LEAPS should be considered by the Commission both in ruling on the requested CPCN for the TE/VS Project, and as the “whole of the project” for purposes of California Environmental Quality Act review (i.e. the TE/VS Project is a component of the broader LEAPS project). One of the primary purposes, if not the purpose, of the TE/VS Project is to interconnect the LEAPS project to the transmission systems of Southern California Edison and San Diego Gas

¹ See, e.g., Concurrent Brief On Threshold Issues Of Santa Ana Mountains Task Force Of The Sierra Club & Friends Of The Forest (Trabuco District) And The Santa Rosa Plateau, *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, A.0-07-001 (fld. Nov. 19, 2010)*, at 1.

² 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 Project, A.0-07-001 (fld. Nov. 19, 2010)*, at 11.

& Electric and the CAISO grid.³ As pointed out in the opening brief of Center For Biological Diversity, “the plans, engineering, and financing of the larger LEAPS Project are intertwined with the TE/VS Project. Allowing the TE/VS Project to proceed without the necessary LEAPS component would undermine the purpose of Public Utilities Code section 1003 that allows the CPUC and the public to thoroughly analyze projects facilitated by the CPUC.”⁴ Although a CPCN is not required for LEAPS, the TE/VS Project can and should be considered in concert with the LEAPS Project, not in isolation from it.

Furthermore, without the LEAPS Project, the TE/VS Project could not meet the standard to procure the requested CPCN from the Commission. As acknowledged in Southern California Edison’s opening brief, the requisite need and benefit of the TE/VS Project stems from its eventual interconnection of the generation that will be provided by the LEAPS project.⁵ TNHC’s opening brief is noticeably silent on the relationship of the LEAPS and TE/VS Projects, and on consideration of the LEAPS project for purposes of analyzing the TE/VS Project .

///

///

///

///

///

///

///

///

³ Brief Of The Center For Biological Diversity 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 Project, A.0-07-001* (fld. Nov. 19, 2010), at 2.

⁴ *Id.* at 4.

⁵ Opening 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 Project, A.0-07-001* (fld. Nov. 19, 2010), at 3.

III.

CONCLUSION

In light of the ongoing threshold issues with TNHC's application and its supplemental testimony, EVMWD submits that the parties and the record in this application would benefit from an additional pre-hearing conference to further vet these issues.

Respectfully submitted,

/s/ JENNIFER M. HALEY

John E. Brown

Jennifer M. Haley

Best Best & Krieger LLP

Attorneys for:

Elsinore Valley Municipal Water District

655 West Broadway, 15th Floor

San Diego, CA 92101

Phone: (619) 525-1332

Fax: (619) 233-6118

December 10, 2010

SERVICE LIST FOR A.10-07-001

jbuse@biologicaldiversity.org
grasse@curegroup.org
fmobasheri@aol.com
garcia@electricpowergroup.com
case.admin@sce.com
dkates@sonic.net
liddell@energyattorney.com
KO'Beirne@SempraUtilities.com
CentralFiles@SempraUtilities.com
john.brown@bbklaw.com
k.estenger@jdlincoln.com
merllr@verizon.net
merllr@verizon.net
ryoung@evmwd.net
environment@cox.net
cem@newsdata.com
stephen.velyvis@msrlegal.com
bca@cpuc.ca.gov
ang@cpuc.ca.gov
mey@cpuc.ca.gov
nms@cpuc.ca.gov

Podgorsky@wrightlaw.com
morand@wrightlaw.com
robert.kang@sce.com
PSzymanski@SempraUtilities.com
Charity.Schiller@bbklaw.com
gfrick@cosmoaccess.net
AirSpecial@aol.com
johnpecora100@ca.rr.com
gXH@cpuc.ca.gov
jevans@biologicaldiversity.org
mrw@mrwassoc.com
e-recipient@caiso.com
Jennifer.Haley@bbklaw.com
jsanders@caiso.com
Njacobsen@waterboards.ca.gov
rkanz@waterboards.ca.gov
sophie.akins@bbklaw.com