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 500 kV Interconnect Project.	))))))	Application 10-07-001 (Filed July 6, 2010)

REPLY BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY ON CERTAIN THRESHOLD ISSUES

Paul A. Szymanski
Senior Attorney
San Diego Gas & Electric Co.
101 Ash Street, HQ 12
San Diego, CA 92101
Phone: 619/699-5078
Fax: 619/699-5027
pszymanski@semprautilities.com

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I. INTRODUCTION

In response to ALJ Minkin's October 6, 2010 *Administrative Law Judge's Ruling Establishing Date for Service of Supplemental Testimony and Setting Briefing Dates* (Ruling), San Diego Gas & Electric Company (SDG&E) respectfully submits this Reply Brief to parties' Opening Briefs on four "threshold issues" identified in the Ruling and discussed at the September 22, 2010 prehearing conference (PHC).[1] On November 19, 2010, SDG&E submitted an Opening Brief as well, emphasizing among other things, that the statutory requirements for granting a certificate of public convenience and necessity (CPCN) are dissimilar from the requirements authorizing CPCN holder to become a "public utility." SDG&E also maintains that The Nevada Hydro Company (TNHC) must abide by the statutory mandates governing intervenor compensation as would any other CPCN applicant and provide assurances, such as a bond or other security, that it will pay such compensation whether or not its CPCN application is approved. SDG&E hereby replies to certain positions taken by parties in their Opening Briefs to help clarify at least some of the threshold issues in this proceeding.

[1] SDG&E received Opening Briefs from the Center for Biological Diversity (CBD); Division of Ratepayer Advocates; Elsinore Valley Municipal Water District (EVMWD); Frontlines; Mr. John Pecora; Santa Ana Mountains Task Force of the Sierra Club (SAMTF) & Friends of the Forest (Trabuco District) And the Santa Rosa Plateau (FOF&P); and Southern California Edison Company (SCE).

SDG&E notes that the Ruling directed TNHC to provide further factual information and analyses through updated testimony covering numerous, specific topics. ALJ Minkin's Ruling further specified that "TNHC should carefully review and address those issues, including supplementing the showing on costs." On November 30, 2010, SDG&E received from TNHC several documents reflecting new testimony. SDG&E continues to urge, as a matter of due process and efficiency, that TNHC make clear to the Commission and parties certain further basic information about its showing, such as (a) whether TNHC intends further updates to its application and/or associated Preliminary Environmental Assessment (PEA), and if so, when those updates will be forthcoming; and (b) whether any testimony or PEA previously filed in this proceeding is proposed to be withdrawn. Otherwise, this proceeding holds the unfortunate prospect of requiring the Commission and parties to expend resources needlessly, as was the case with TNHC's prior CPCN application.[2] The Commission and parties are entitled to know with certainty and specificity what the "application" is comprised of in order to assess if the application has met its burden of proof and other applicable requirements. The Commission's CPCN proceedings are not a venue for parties to float ideas that are subject to frequent, substantive revision.

In SDG&E's view, the Commission and parties should have a clear and complete understanding of TNHC's and EVMWD's plans with respect to other pending or expected regulatory proceedings that relate to this Commission's proceeding. For example, SDG&E is

[2] A.09-02-012 and A.07-10-005. See D.09-04-012, Decision Dismissing Application Without Prejudice, stating: "If Applicant files a new application for this Project, Applicant shall ensure that the application and the associated Proponent's Environmental Assessment **shall fully and completely comply** with the requirements under the California Environmental Quality Act, General Order 131-D, and Rule 2.4(b). In addition, any new application and Proponent's Environmental Assessment **must also cure** the specific deficiencies identified in the Commission Staff's most recent deficiency letter, dated March 12, 2009." In the instant proceeding, THNC has already been directed to update its showing in regards to detailed maps and other deficiencies. Given these circumstances, TNHC should, as part of the instant proceeding, be required to show how each requirement from the Ruling, D.09-04-012 and the Commission's March 12, 2009 fifth deficiency letter has been met, before requiring parties to develop testimony or prepare further responses to TNHC's November 30, 2010 submission.

aware that FERC's Office of Energy Projects recently suggested to both TNHC and EVMWD that "you should reapply for a [Water Quality Certificate, or WQC] and begin working with the CPUC on a CEQA document for the project."[3] FERC Staff also noted that: "Given that it has been several years since staff completed its final EIS for the project (January 2007), I want to be sure the CPUC has all of the information it needs to timely prepare its analysis," and it directed TNHC and Elsinore to provide "a schedule that shows how you plan to provide the CPUC the information it needs to prepare the final CEQA document for the entire LEAPS project."[4] SDG&E shares the apparent concern that FERC's final EIS may be outdated, and the applicant's submissions to FERC on which the final EIS was based are more dated still.[5] TNHC's and EVMWD's schedule and intentions for the interrelated FERC and state proceedings and needed approvals should be clearly depicted and provided to the Commission and parties.

There is another important, related regulatory matter: TNHC has represented that it intends to seek recovery for its proposed transmission facilities through the CAISO's transmission access charge (TAC) mechanism and turn over operation control of those transmission facilities to the California Independent System Operator (CAISO).[6] In order for the costs of a proposed transmission facility to be eligible for TAC treatment, the CAISO should make a determination that the consumers who will pay the TAC costs are expected to receive benefits in comparison to other alternatives that exceed the proposed transmission facility's estimated cost. Given TNHC's statements, TNHC should explain its plans and schedule for

[3] See Letter of the Federal Energy Regulatory Commission's Office of Energy Projects, dated November 17, 2010, submitted in FERC Docket P-11858-002.
[4] Id. Also note that, in connection with Briefing Question #2, FERC's letter strongly implies that FERC does not view its authority over LEAPS to exclude California's review of a major, proposed hydro project such as LEAPS. Rather, FERC clearly is reaching out to engage the CPUC in the very "dual system" of regulation discussed in the case law that fairly reflects the interests and jurisdictions of both federal and state agencies. This framework is discussed below in response to Question 2.
[5] SDG&E notes that TNHC's most recent hydro licensing application was filed at FERC on January 30, 2004, nearly seven years ago.
[6] See TNHC Application, at 2.

obtaining review of its proposed transmission facilities at the CAISO,[7] or indicate whether it has decided to forego TAC treatment for its proposed facilities.

SDG&E respectfully recommends that applicant TNHC should submit the information associated with the related CPUC-, FERC-, and CAISO-related matters, so that the Commission and parties can then chart an efficient and appropriate course for the instant proceeding. Parties should not be required to respond further, and the Commission should not establish a further pre-hearing conference, until that further information is provided.

II. DISCUSSION

SDG&E offers the following reply comments on the questions posed in the Ruling.

1. Entities applying for a Certificate of Public Convenience and Necessity (CPCN) at the Commission are generally certificated as public utilities if and when the project is approved. If the project is not approved, for some reason, the entity would not be determined to be a public utility. Is there a reason to proceed any differently in this matter? Why or why not?

In SDG&E's Opening Brief, SDG&E explained that California Public Utilities Code Section 1001 et seq.[8] addresses the statutory requirements governing CPCNs, whereas Section 216 and Section 218 provide the statutory definitions of a "public utility" and an "electrical corporation." The applicable California statute is clear that an entity does not qualify as an "electric corporation" unless and until the entity (a) owns, controls, or manages (b) electrical plant (c) for compensation (d) within California. The existence of a Commission Order approving a CPCN for "electrical plant" does not in itself satisfy any of these statutory elements. SDG&E finds no basis for the Commission to waive any -- much less all -- of these statutory elements. If the legislature intended for "public utility" status to be granted upon issuance of a

[7] So far as SDG&E is aware, TNHC has not requested that the CAISO make a determination that the TE/VS Interconnect project, apart and separate from the combined TE/VS-LEAPS project, is eligible for TAC treatment.
[8] All statutory references herein are to the California Public Utilities Code.

CPCN, it would have made that possibility clear in either or both of Sections 216 or 218, but neither statute allows that conclusion based on a plain reading. No party has submitted any position that would alter that firm conclusion that the statutes require.

Nevada Hydro nonetheless makes several arguments, without reference to the applicable statutes, in support of its argument that TNHC "would be a public utility upon issuance of the CPCN."[9] First, TNHC asserts that "[t]here is no reason, based in public policy or otherwise, for proceeding any differently, and to proceed differently would unduly discriminate against Nevada Hydro." Second, TNHC cites to certain gas storage cases issued by the Commission, but no "electric plant" cases, in support of its position. Third, TNHC mistakenly contends that it is stuck in a "chicken or egg" dilemma if it is not granted public utility status upon immediate issuance of a CPCN. Fourth, TNHC asserts that it, if granted a CPCN, it will then meet the "dedication to public use" requirement. SDG&E finds no merit in any of these arguments, as explained below.

First, contrary to TNHC's contention that "no reason" exists for proceeding other than to grant it "public utility" status, there indeed are reasons to grant that status only to entities that meet the statutory requirements. It should suffice that California law, noted above, requires the existence of "electrical plant" that is dedicated to public use in order for the entity owning, operating, or managing that plant to be an "electrical corporation." But in addition, SDG&E sees no indication that the legislature intended entities to become public utilities simply on the basis of a "plan" to build. To be a public utility an entity needs to have "plant." SDG&E sees no legal basis or precedent for TNHC's position that would suggest that a paper-only entity, with no "plant," could be "dedicated to public use" or be considered "similar situated" to an existing public utility with existing "plant." Indeed, it is possible that an entity holding a CPCN would,

[9] TNHC Opening Brief at 3.

for number of reasons, not go forward with its plans to build and/or own the "electrical plant." TNHC's assertion that it "will be" a public utility is in itself insufficient to establish the requirement, which is visited on all current electrical corporations, that its electric plant must be dedicated to public use and put in service for compensation. Thus, there is no basis for TNHC's assertion that it would be subject to undue discrimination if the Commission were to hold TNHC to the same requirements as existing public utilities.

Second, TNHC refers to three gas storage decisions issued by the Commission, but no "electrical plant" cases, in support of its position. The reason that only gas storage CPCN cases were cited by TNHC is that they were issued in furtherance of a major gas-storage-specific policy announced by the Commission, via its "Gas Storage Decision,"[10] which "allowed independent storage providers to enter the storage market and compete with existing local distribution companies (LDC), subject to legal requirements."[11] Moreover, as noted in another case cited by TNHC, "The Commission has also recently initiated its Gas Strategy Rulemaking 98-01-011, which is assessing the current market and regulatory framework for California's natural gas industry to identify services for which the public interest suggests the need for greater competition and to determine the steps that the Legislature and this Commission must take to facilitate healthy competition."[12] All three cases contain extensive discussion of the Commission's gas-specific policy which it was effectuating through the CPCN cases that were filed pursuant to the new policies, and in particular, the "Gas Storage Decisions."

None of the cases, however, supports extrapolating the fact-specific gas storage case holdings or rationales to the electric industry, as there is no current, comparable Commission policy in place on the electric side that supports that outcome. None of the Commission's cases

[10] D.93-02-013, 48 CPUC 2d 107 (1993).
[11] D.97-06-091 ("Wild Goose Storage, Inc.").
[12] D.00-05-048 ("Lodi Gas Storage, Inc.").

cited by TNHC contains any discussion of electric plant, much less transmission plant, and TNHC cites to no other industry regulated by the Commission where the Gas Storage Decision and its progeny has been applied. The single analogy of gas storage is inapt to the case at hand and therefore misplaced. In any event, SDG&E is aware of no precedent, in case or statutory law, that authorizes the Commission to grant public utility status to a non-utility entity simply on the grounds that it holds a CPCN to build "electrical plant." Doing so at this juncture would disregard the statutory elements of an "electrical corporation." SDG&E sees no public policy benefit achieved by the proliferation of "paper-only" electrical corporations in California, and no party has provided a rationale for exempting CPCN recipients from meeting all of the statutory elements.

Third, TNHC's discussion of a "chicken or egg" dilemma[13] does not apply in this case, because the Commission has allowed TNHC to pursue its CPCN application even though TNHC is not currently a public utility. In fact, the Commission, in both the instant docket and its predecessor, generously has permitted TNHC to amend its filing numerous times. TNHC's allegations about potential procedural unfairness ring hollow.[14]

TNHC must prosecute its application subject to the same requirements of any other CPCN applicant. If TNHC's application is granted, and if the proposed facilities are built and dedicated to public use, then the entity or entities that own, operate or manage the facilities, for

[13] TNHC at 5.

[14] SDG&E notes Frontline's position that "The Commission accepted TNHC's CPCN application, deemed it complete, and subsequently initiated the TEVS CPCN proceeding. In so doing, and by persisting with the TEVS CPCN proceeding (in accordance with GO-131 and PUC §1001), the Commission continually makes a tacit decision that TNHC is an 'electrical corporation' and an 'electric public utility' even though (according to PUC §218) TNHC is neither." Frontlines at 2. SDG&E appreciates this view and as a general matter does not oppose TNHC's standing to submit a CPCN application even though it is not a "public utility." However, at this time, and unless and until it meets the plain statutory requirements, TNHC is not a "public utility," and the Commission's actions to date have not deemed TNHC a "public utility."

compensation, ***at that time*** would then be authorized to obtain "public utility" status from the Commission.

Fourth, SDG&E does agree with TNHC that in California there is a "dedication to public use" legal obligation, [15] in addition to the CPCN requirements.[16] However, SDG&E disagrees with TNHC's position that TNHC will have met the separate "dedication to public use" requirement "because, as an electrical corporation providing electric transmission service at wholesale, it will have dedicated its facilities to the transmission of electricity for the public."[17] TNHC provides no support for its apparent view that its statement about its future plans is sufficient to carry out a "dedication to public use." TNHC also may be suggesting that once its facilities do, in fact, provide electric transmission service at wholesale, it will have then dedicated them to public use. Turning the transmission facilities, once built, over to the CAISO's operational control coupled with an unequivocal public statement that the facilities are "dedicated to public use" may well meet this requirement. This latter position, however, is inconsistent with TNHC's primary contention that it would be a public utility at the time it obtains a CPCN. SDG&E finds the law to be clear that both a CPCN and the "dedication to public use" requirements are conditions precedent to obtaining "public utility" status from the Commission.

Accordingly, the certification of a public utility requires, at a minimum, the existence of "electric plant" that is owned, operated, or managed by the entity seeking to be a public utility. SDG&E submits that TNHC has not provided any sound legal or policy reason for the

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[15] TNHC at 6-7.

[16] See Independent Energy Producers Assn., Inc. v. State Board of Equalization, 125 Cal. App. 4th 425 (2004) : "…although not expressly contained in article XII, section 3, the state Constitution also requires a dedication to public use to transform private business into a public utility. (Id. at 422, citations omitted). "Courts caution that "'[t]o hold the property has been dedicated to a public use is "not a trivial thing", and such dedication is never presumed 'without evidence of unequivocal intention." (Id. at 443.)

[17] TNHC at 7.

Commission to create new precedent that would allow the existence of "paper-only" public utilities that have no "electrical plant" in California, and that have not formally dedicated such plant to public use, and that have not received compensation for such plant. Should TNHC obtain a CPCN and satisfy these further requirements, it can then seek the Commission's certification as a "public utility." The scope of the instant proceeding, however, should not include consideration of TNHC's status as an "electrical corporation" or "public utility" at this time.

2. 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 from the Helms pumped storage project?

In its Opening Brief, TNHC cited to *First Iowa Hydro-Electric Coop. v. FPC*[18] and *California v. FERC*[19] for the proposition that "[t]he licensing of hydroelectric facilities is preempted by federal law," and based on that conclusion that "[t]herefore, even if Nevada Hydro owned generation and was an electrical corporation pursuant to Public Utilities Code § 218, it would not be required to obtain a CPCN from the Commission for LEAPS."[20] FERC's "broad and paramount" role in hydro power is undeniable. However, SDG&E respectfully disagrees that the authorities cited by TNHC support TNHC's conclusion, especially as applied in the instant proceeding, that "… state laws therefore cannot apply to a new hydroelectric facility because they are superseded by the FPA. Consequently, the Public Utilities Code cannot apply

[18] 328 U.S. 152, 180 (1946).
[19] 495 U.S. 490 (1990).
[20] TNHC at 11.

to a new hydroelectric facility such as LEAPS."[21] SDG&E submits that TNHC's characterization of the law bearing on the Ruling's Question #2 improperly overstates FERC's role and understates the Commission's role in the case of LEAPS. SDG&E believes that federal law, discussed herein, raises important questions and cast doubt on TNHC's "hands-off" view of this Commission's role in assessing LEAPS.

As the U.S. Supreme Court stated in *California v. FERC*:

> In the Federal Power Act of 1935, 49 Stat. 863, Congress clearly intended a broad federal role in the development and licensing of hydroelectric power. That broad delegation of power to the predecessor of FERC, however, hardly determines the extent to which Congress intended to have the Federal Government exercise exclusive powers, or intended to pre-empt concurrent state regulation of matters affecting federally licensed hydroelectric projects. The parties' dispute regarding the latter issue turns principally on the meaning of § 27 of the FPA, which provides the clearest indication of how Congress intended to allocate the regulatory authority of the States and Federal Government. That section provides:
>
> "Nothing contained in this chapter shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use or distribution of water used in irrigation or ***municipal*** or other uses, or any vested right acquired therein." 16 U.S.C. § 821 (1982 ed.).
>
> …The [*First Iowa*] Court interpreted § 27 as follows:
>
> The effect of § 27, in protecting state laws from supersedure, is limited to laws as to the control, appropriation, use or distribution of water in irrigation or for ***municipal*** or other uses of the same nature….[22]

While these cases provide a ***general*** case for preemption, neither of these important cases, nor any other case cited by TNHC, applied or specifically addressed the explicitly

[21] TNHC at 11.
[22] California v. FERC, 495 US at 496-498, emphases added.

mentioned carve-out of ***municipal*** uses to the broad authority of the federal government. As far as SDG&E can determine, ***municipal*** uses have not been preempted, or determined to be preempted, from state licensing authority due to the text of § 27. Indeed, § 27 has not been ruled unconstitutional, and when viewed in the context of other decisional law, it appears reasonably clear that ***municipal*** uses are ***not preempted***, at least from areas in which a State's licensing framework does not duplicate or interfere with federal government's ability to discharge its responsibilities under federal law**.** SDG&E finds it implausible that, in the case of a municipal entity such as EVMWD, this "savings clause" section of federal law can be wholly disregarded or given no legal effect. While the Court has given a "narrow" interpretation to § 27, there is no indication that the savings clause has been rendered a nullity, especially in the case of municipal entities. Thus, SDG&E does not agree with the view that there is "no basis" for the Commission to assert "any" jurisdiction over the licensing of LEAPS.[23]

In fact, aside from the "savings clause" exemption, this line of precedent beginning with *First Iowa* acknowledges a "dual system" of regulation:

> In the Federal Power Act there is a separation of those subjects which remain under the jurisdiction of the states from those subjects which the Constitution delegates to the United States and over which Congress vests the Federal Power Commission with authority to act. To the extent of this separation, the Act establishes a dual system of control. The duality of control consists merely of the division of common enterprise between two cooperating agencies of Government, each with final authority in its own jurisdiction. The duality does not require two agencies to share in the final decision of the same issue. Where the Federal Government supersedes the state government there is no suggestion that the two agencies both shall have final authority.[24]

[23] Such a review need not occur at this time. SDG&E understand the subject proceeding as not including a review of the LEAPS facility.
[24] 328 US at 167-168.

Thus, the applicable law contemplates that FERC, even where it has final authority, is authorized to seek "*in so far as it deems material,* such parts or all of the information that the respective States may have prescribed in state statutes as a basis for state action."[25] Thus, TNHC statement that "…any regulation by the Commission over a hydropower project would be an impermissible dual system of duplication over the same subject matter"[26] is an inaccurate statement of what the Court has said in framing the "dual system" and the respective State and Federal roles. Again, SDG&E does not find the law to dictate that California has "no role" in the licensing of LEAPs.

Additionally, it is clear that in the case of LEAPS, FERC has indicated that, as a condition precedent to its action on in pending application in P-11858, TNHC and EVMWD must obtain either approval or a waiver from the State of California that LEAPS complies with Section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972.[27] As noted earlier, FERC Staff has underscored to TNHC and EVMWD that FERC intends for this Commission to have the schedule, and no doubt other pertinent information it requires, to enable the Commission to conduct its CEQA analysis. Thus, FERC intends for the Commission to be part of the "review chain" that would necessarily precede FERC's action on the pending hydro licensing application. In SDG&E's view, TNHC has misstated the roles of the FERC and Commission with respect to LEAPS.

Moreover, SDG&E sees no preemption issue raised if the Commission's CPCN review of LEAPS were to consider factors different from those considered by FERC. SDG&E believes that the Commission could request that the LEAPS co-applicants verify whether the showing required by FERC for issuance of a hydro license and for a CPCN from the Commission would,

[25] Id. At 169, emphasis in original.
[26] TNHC at 16.
[27] See FERC Office of Energy Projects' Letter to EVMWD and TNHC dated November 17, 2010 Re: "Plan for Obtaining Water Quality Certification," Project No. P11858-002. The approval would be reflected in a "Water Quality Certificate" (WQC) from the California State Water Resources Control Board. http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12488688

in the particulars, be duplicative. Further, if the information supporting the co-applicants' FERC application is not current, then the Commission should be apprised of the details so that the Commission can determine for itself whether it can and should exercise jurisdiction to assess the public convenience and necessity of LEAPS. SDG&E is not aware that the Commission has the requisite information at this time to make the necessary assessments. SDG&E recommends that the Commission assess the legal considerations noted herein obtain sufficient information from either or both of the LEAPS co-applications to address the extent of duplication, if any, that the FERC's and this Commission's CPCN review would entail.

3. If, for some reason, the Talega-Escondido/Valley-Serrano project is not approved and TNHC is not determined to be a public utility under Pub. Util. Code § 218, should eligible intervenors receive intervenor compensation under Pub. Util. Code § 1801 et seq.? If so, who would be responsible for paying those intervenors?

SDG&E reaffirms the positions it made in its Opening Brief that TNHC should pay intervenor compensation to eligible intervenors for their participation in the subject proceeding, regardless of its outcomes. In this regard, SDG&E agrees with the comments of several parties that the statutory provisions of Public Utilities Code Section 1803.3(a), (b), and (d) and Section 1807 all apply in this complex proceeding.

Indeed, the Commission should and must undertake the actions that Section 1803.3(b) specifically authorizes it to do: "(b) The provisions of this article shall be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process." Thus, the legislature expressly provided the Commission with the latitude to administer the statutory intervenor compensation requirements consistent with the legislature's clear, all-inclusive intent. "Effective and efficient participation" by intervenors would be significantly compromised if intervenors were faced with the prospect of

receiving no intervenor compensation regardless of their contribution to the proceeding.[28] This outcome would clearly frustrate legislative intent.

4. Should TNHC be required to post a bond or provide some other guarantee of payment for intervenors or for payment to the Division of Ratepayer Advocates for consultant services pursuant to Pub. Util. Code § 631?

Yes. SDG&E reaffirms the views it expressed in its Opening Brief as well as those of several parties that TNHC should post a bond or other security to ensure that both the intervenor compensation requirements and Section 631 requirements will be met. SDG&E also supports SCE's analysis that the "Commission has the discretion to require applicants to post bond where appropriate."[29] Doing so would indeed be appropriate in this case.

DATED this 10th day of December 2010 at San Diego, California.

Respectfully submitted,

/s/ Paul A. Szymanski

Paul A. Szymanski
Senior Attorney
San Diego Gas & Electric Co.
101 Ash Street, HQ 12
San Diego, CA 92101
Phone: 619/699-5078
Fax: 619/699-5027
pszymanski@semprautilities.com

[28] Under TNHC's interpretation of the law, this is what would happen if the Commission were not to grant a CPCN.
[29] SCE at 5, citations omitted.

CERTIFICATE OF SERVICE

I hereby certify that a copy of **REPLY BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY ON CERTAIN THRESHOLD ISSUES** has been electronically mailed to each party of record of the service list in A.10-07-001. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to the assigned Administrative Law Judges and Commissioner.

Executed this 10th day of December, 2010 at San Diego, California.

/s/ Jenny Norin

Jenny Norin