

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

The Nevada Hydro Company, Inc.

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Project No. 14227-000

**MOTION TO INTERVENE AND COMMENTS  
OF SAN DIEGO GAS & ELECTRIC COMPANY**

Pursuant to Rules 211 and 214, 18 C.F.R. §§ 385.211 and 385.214, of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), San Diego Gas & Electric Company (“SDG&E”) hereby moves to intervene out of time in the above-captioned proceeding. In support hereof, SDG&E states as follows:

**I. BACKGROUND**

On July 14, 2011, The Nevada Hydro Company (“Nevada Hydro”) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act<sup>1</sup>, proposing to study the feasibility of the proposed Lake Elsinore Advanced Pumped Storage (“LEAPS”) Project, a hydroelectric facility to be situated in Riverside County, California. The LEAPS Project is proposed to include two reservoirs with associated power generating equipment as well as approximately 32 miles of 500-kV transmission line that would connect the existing transmission systems of Southern California Edison to the north of the proposed project and SDG&E to the south of the proposed project.<sup>2</sup> On November 29, 2011, the Commission issued a Notice of Preliminary Permit Application which solicited comments,

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<sup>1</sup> 16 U.S.C. § 797(f).

<sup>2</sup> The proposed 500 kV transmission line, and substations at the northern and southern ends of the 500 kV transmission line, would connect Southern California Edison’s 500 kV Valley-Serrano line to SDG&E’s 230 kV Talega-Escondido line. These facilities, together with related transmission upgrades in the Talega-Escondido transmission line corridor, and would be called the “TE/VS Interconnect.”

motions to intervene and competing applications.<sup>3</sup> Accordingly, SDG&E hereby moves to intervene and submit the accompanying comments, below.

## **II. CORRESPONDENCE**

All notices, orders, correspondence, and other communications related to this proceeding should be directed to the following individuals:

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## **III. MOTION TO INTERVENE**

SDG&E is a California corporation with its principal place of business at 8330 Century Park Court, San Diego, California. SDG&E is engaged in the transmission, distribution, and sale of electricity under the jurisdiction of the Federal Energy Regulatory Commission and the California Public Utilities Commission. SDG&E distributes electricity at retail to some 1.4 million customers in San Diego and Orange Counties, California. SDG&E is a participating transmission owner that has transferred operational control of its transmission system to the California Independent System Operator. SDG&E has a substantial interest in this proceeding as the LEAPS Project, as proposed, inclusive of the proposed TE/VS Interconnect, would interconnect with SDG&E's transmission facilities. SDG&E's interest cannot be adequately represented by other parties to this proceeding.

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<sup>3</sup> See Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications, dated November 29, 2011, docket no. P-14227.

#### IV. COMMENTS

In July 2004, Nevada Hydro filed with its co-applicant, the Elsinore Valley Municipal Water District (“District”), an application for the LEAPS project. This application, docketed by the Commission as P-11858, was dismissed by Order of the Commission’s Director, Office of Energy Projects on July 12, 2011. Following a request for rehearing by Nevada Hydro, the Commission denied rehearing of P-11858 in an Order dated November 17, 2011 (the “Rehearing Order”), which contains an extensive discussion both of the seven-year history of P-11858 and the Commission’s basis for dismissing P-11858. The Rehearing Order noted, but left unresolved, many areas of disagreement between Nevada Hydro and the District, including the issue as to whether the proposed TE/VS Interconnect would be considered a primary line, a facility which the Commission has authority to license, or a “stand-alone” transmission line, which this Commission does not have authority to license.<sup>4</sup>

As noted above, shortly after the July 12, 2011 Order dismissing P-11858, Nevada Hydro filed on July 18, 2011 an application “identical” to the application that was later dismissed by the Rehearing Order, except that the District was no longer a co-applicant.<sup>5</sup> Because eight years have now passed since Nevada Hydro’s initial 2004 filing, and approximately five years have passed since the issuance of the Final Environmental Impact Statement, which was based at least in part on preceding factual representations by the applicant, SDG&E queries whether the now-pending application may be outdated precisely because it is “identical” to and not updated in all relevant respects from the prior application, docketed and later dismissed in P-11858. In its Rehearing Order, the Commission stated that

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<sup>4</sup> See Rehearing Order at Paragraph 5.

<sup>5</sup> As Nevada Hydro states in its July 18, 2011 filing in this proceeding (at page 1), “[t]he project proposed herein is identical to that described in the Commission’s Final Environmental Impact Statement, issued under P-11858 in 2007.”

“[i]t may be possible to use in any future licensing proceeding those portions of the record that have been developed in these proceedings *which remain up to date.*”<sup>6</sup> As a preliminary matter, Nevada Hydro should be required to verify that all factual representations on which the 2007 Final Environmental Impact Statement were based are still current, complete and accurate as are all other aspects of its now-pending application and further representations.<sup>7</sup> It is reasonable to require an applicant re-filing an “identical,” eight-year old application to assure the Commission and affected parties that its representations “remain up to date.”

As an example of SDG&E’s concern, Nevada Hydro represents that:

The proposed Case Springs 500 kV to 230 kV gas-insulated substation (GIS), located near MP 31.5, serves as the southern interconnection of the TE/VS Interconnection to the SDG&E system. The Substation (500 kV, 230 kV, and 13.8 kV station power) will be located adjacent to the ROW of SDG&E’s existing 230 kV transmission lines within land owned by the Fallbrook Land Conservancy.<sup>8</sup>

SDG&E is aware, however, that as of April 28, 2011, the Fallbrook Land Conservancy has indicated that its board withdrew the Fallbrook Land Conservancy Land as a potential site for Case Springs substation.<sup>9</sup> Thus, there is uncertainty regarding the location of the Case Springs substation and the portion of the 500 kV line purportedly on Fallbrook Land Conservancy land which would connect to that substation, as proposed in P-14227. The Case Springs substation is the connection point with SDG&E’s existing transmission facilities.<sup>10</sup>

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<sup>6</sup> Rehearing Order at n.19, emphases added.

<sup>7</sup> SDG&E has noted that, on January 26, 2011, Nevada Hydro filed an extensive “Pre- Application Document” (hereafter “Pre-Application Document”). As of this filing date, SDG&E has not had sufficient time to review and fully consider.

<sup>8</sup> Nevada Hydro Pre-Application Document at 31.

<sup>9</sup> Nevada Hydro December 16, 2011 Comments on Administrative Law Judge’s Ruling Requiring Comment on Dismissing Application, Attachment 7.

<sup>10</sup> SDG&E observes that many of the photos contained in Nevada Hydro’s Pre-Application Document are dated 2003 and 2008; the proposed location of the southern terminus of the TE/VS Interconnect continue to reference the dismissed Fallbrook Land Conservancy site and remains unclear.

At bottom, Nevada Hydro needs to confirm that its application and representations in P-14227, and the factual basis of the Final Environmental Impact Statement, are up to date, complete and accurate.

Second, SDG&E notes that Nevada Hydro has filed an application with the California Public Utilities Commission (“CPUC”) for approval of a certificate of public convenience and necessity (“CPCN”) for the proposed TE/VS line.<sup>11</sup> Presumably, from the CPUC’s perspective, Nevada Hydro is seeking approval of the TE/VS Interconnect as a “stand alone” line, not a “primary” line that would only transmit power from the proposed LEAPS Project and not from other sources of power. However, the contents of Nevada Hydro’s 2011 application at the FERC would suggest that Nevada Hydro is, at the same time, seeking FERC’s approval of TE/VS as a “primary” line. The FERC needs to make an explicit determination of whether TE/VS is a “primary” line and therefore jurisdictional to the FERC under federal hydro licensing law, or a “stand alone” line in which case FERC would not have jurisdiction.

Before the Commission and parties expend further resources in this proceeding, SDG&E recommends that FERC direct Nevada Hydro to verify that its application and other filings in P-14227 are up to date, complete, and accurate. SDG&E recommends that the FERC confirm that Nevada Hydro has identified, with specificity sufficient for environmental and technical analysis, the location of the Case Springs substation. Given the Fallbrook Land Conservancy board’s decision to “withdraw” its land as a potential site for the Case Springs substation, SDG&E recommends that the FERC make an explicit finding as to whether Nevada Hydro’s proposed location for the Case Springs substation is certain enough to justify

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<sup>11</sup> See CPUC Proceeding A.10-07-001.

the expenditure of further resources in this proceeding. Finally, the FERC must determine at the outset of this proceeding whether it has jurisdiction under federal hydro licensing law over some or all of the proposed 500 kV facilities, the substations at the northern and southern ends of the 500 kV line and related transmission upgrades in the Talega-Escondido transmission corridor. .

**V. CONCLUSION**

For the reasons set forth herein, SDG&E respectfully moves to intervene in this proceeding and requests that it be accorded all rights as a full party to such proceeding.

Respectfully submitted,

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January 27, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at San Diego, California, this 27th day of January, 2012.

          /s/ Jenny Norin            
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