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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of San Diego Gas & Electric Company
(U 902 E) for Authority to Partially Fill the Local
Capacity Requirement Need Identified in D.14-03-004
And Enter into a Purchase Power Tolling Agreement
With Carlsbad Energy Center, LLC.

Application 14-07-009
(Filed July 21, 2014)

APPLICATION FOR REHEARING OF DECISION (D.) 15-05-051

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Date: June 29, 2015

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric Company
(U 902 E) for Authority to Partially Fill the Local
Capacity Requirement Need Identified in D.14-03-004
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Application 14-07-009
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APPLICATION FOR REHEARING OF DECISION (D.) 15-05-051

In accordance with the provisions of Rule 16 of the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“Commission”), the World Business Academy ("Academy") hereby requests rehearing of D.15-05-051.

I. THE ACADEMY ENDORSES AND SUPPORTS THE APPLICATIONS FOR REHEARING FILED IN THIS CASE BY SIERRA CLUB AND CALIFORNIANS FOR RENEWABLE ENERGY, INC.

In the interests of regulatory efficiency, as well as in deference to the provisions of Commission Rule 17.4, which directs parties with allied interests in Commission proceedings to minimize duplication of effort, the Academy hereby states its unqualified support for, and endorsement of, the Applications for Rehearing filed in this case by Californians for Renewable Energy, Inc. (“CARE”) on June 24, 2015 and by the Sierra Club on this day. The Academy wishes to be associated with the arguments set forth in the Sierra Club’s and CARE’s Applications for Rehearing, and urges the Commission to

withdraw D.15-05-051 on the basis of those arguments.

II. COMMISSIONER SANDOVAL'S DISSENT PROVIDES COMPELLING ARGUMENTS DEMONSTRATING WHY D.15-05-051 IS RIDDLED WITH LEGAL ERROR

In addition to the excellent arguments set forth in the Applications for Rehearing of Sierra Club and CARE demonstrating why rehearing should be granted in this case, the dissent to D.15-05-051 that was filed by Commissioner Sandoval provides a powerful demonstration to the other four Commissioners why that decision was riddled with legal error, such that it should be overturned. Indeed, Commissioner Sandoval's dissent provides a tailor-made template of the reasons that can and should be adopted by the reviewing court in determining to overturn that decision. Accordingly, the four Commissioners that initially voted for that decision should heed the compelling arguments made by Commissioner Sandoval and should reconsider their initial decision before a reviewing court itself identifies those legal errors and overturns the majority's decision.

What follows are selections from Commissioner Sandoval's dissent that provide the crux of the legal arguments demonstrating error in the adopted decision.

Commissioner Sandoval's argument speaks for itself, and there is no need for the Academy to embellish or explicate it.

From Sandoval dissent, page 1:

“The Commission's February 2014 approval of SDG&E's power purchase agreement with the Pio Pico plant (D.14-02-016) fulfilled SDG&E's LCR procurement authorization stemming from OTC retirement needs as

identified and ordered in D.13-03-029. Neither the Track 4 Decision, nor the Carlsbad application, nor the Carlsbad proceeding scoping memo, nor the Carlsbad Decision analyzed any need for or created any new authorization to procure power to address LCR needs resulting from OTC retirement in SDG&E's territory. The Commission's approval of the Carlsbad PPTA cannot rest on any asserted need to address OTC retirements as that need was met more than a year earlier through the approval of the Pio Pico contract.

"Commission decisions may only reach issues in the proceeding's scope, and must be based on evidence in the record of that proceeding. The scoping memo for the Carlsbad PPTA proceeding did not include any analysis of whether additional procurement was needed to fill any gaps from OTC retirement that might be outstanding after the

From Sandoval dissent, page 2:

“approval of the Pio Pico power purchase agreement. The Carlsbad scoping memo considered whether existing or potential changes in transmission resources might affect the need and authorization for procurement in the SDG&E service area, but did not analyze whether additional procurement was necessary to address OTC retirement. The Carlsbad application was submitted to fulfill procurement needs authorized by the SONGS retirement, not to double fill OTC retirement needs that had already been met through approval of Pio Pico. To the extent that the Carlsbad Decision rests on the grounds of asserted need to meet OTC retirement beginning in 2018 (a need met by Pio Pico), that issue is out of scope of the Carlsbad application proceeding and not within the Track 4 procurement authorization to meet the SONGS retirement needs. (Emphasis added.)

. . .

“The alternate decision states that “the main argument for contracting bilaterally rather than awaiting the results of an RFO [Request for Offers] is that ‘delaying action on this Application to await the results of SDG&E’s all-source RFO likely will jeopardize the timely retirement of the Encina [Power Station] and/or create a significant reliability gap.’ ” The issue of any asserted need to take additional steps to address OTC retirement, including Encina’s retirement, is not within the scope of the Carlsbad proceeding, nor is it supported by the authorization in the Track 4 decision for procurement to replace SONGS. The Decision asserts without supporting evidence that any delay in approval of the Carlsbad application may jeopardize the Encina plant retirement and/or create a significant

reliability gap, and cites this as a key reason why the Commission should not wait until the completion of SDG&E’s ongoing RFO process to fill the need authorized in Track 4 through a competitive solicitation. Since the Commission authorized the gap created by Encina’s retirement in 2018 to be filled by Pio Pico, the Carlsbad Decision rests on a need already met and an issue not in scope of the Carlsbad application. Evidence was not gathered or debated among the parties_ (emphasis added)

From Sandoval dissent, page 3:

“about any assertion of additional need to handle OTC retirement since that issue was not in the Carlsbad or Track 4 scope.

. . .

“Whether additional resources may be needed to address OTC retirements is an issue the Commission should consider, but that issue was not considered in Track 4 (the authorization on which the Carlsbad application was based), or in the Carlsbad proceeding. To use OTC retirement as a basis for approving the Carlsbad application is not permitted by the Track 4 authorization, Carlsbad’s scope, the record in this proceeding, or the Commission’s rules and procedures. (Emphasis added.)

“A lily seed may only produce a lily, and a rose seed may only produce a rose. The Carlsbad Decision seeks to grow a lily from a rose seed, to fill unidentified and unauthorized OTC retirement needs from an authorization for the SONGS retirement need. This the Commission cannot do, and therefore I dissent from this Decision.” (Emphasis added.)

III. CONCLUSION

For all the reasons set forth in the Applications for Rehearing of D.15-05-051 that were filed in this case by Sierra Club and CARE, as well as in the powerful dissent to that decision that was issued by Commissioner Sandoval, D.15-05-051 must be withdrawn by the Commission. Otherwise, the Court of Appeal that will be reviewing that decision will be well within its rights to overturn it on its own initiative.

Respectfully submitted,



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