

**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 and  
Necessity for the Sunrise Powerlink  
Transmission Project.

A.06-08-010  
(Filed August 4, 2006)

**PHASE II REPLY BRIEF  
IMPERIAL IRRIGATION DISTRICT**

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## **I. INTRODUCTION**

Imperial Irrigation District ("IID") filed its Phase II Opening Brief on May 30, 2008. IID has set forth its positions and concerns as expressed in its pleadings, testimony and briefs at every phase of these proceedings. IID supports San Diego Gas & Electric's (SDGE) Sunrise Powerlink project, but does not agree with SDGE's preferred northern route. Instead, IID supports the southern route alternatives, including Aspen's Environmentally Superior Southern (SWPL) Alternative and SDGE's Enhanced Southern Route. IID submits that the southern route alternatives are shorter, less costly, have the least impact on agricultural and irrigation operations in the Imperial Valley, are the least environmentally damaging and have a greater chance of being constructed within the near time frame than SDE's preferred northern route.

IID has already set forth its arguments in favor of the southern route in its Phase I Briefs and Phase II Opening Brief. There is no need for IID to repeat those arguments here, however to aid the Commission in rendering a decision regarding routing options, IID will use this reply brief to respond to certain arguments SDGE set forth in its Phase II opening brief in support of its preferred northern route alternative.

## **II. TRANSMISSION ALTERNATIVES DIRECT ACCESS TO IMPERIAL VALLEY RENEWABLES**

### **A. LAKE ELSINORE ADVANCED PUMP TRANSMISSION ONLY ALTERNATIVE (LEAPS)**

IID explained in its Phase II Opening Brief, the Sunrise Powerlink Draft Environmental Impact Statement/Environmental Impact Report (DEIR/EIS) incorrectly concludes that LEAPS does not provide direct access to Imperial Valley Renewables. This conclusion is incorrect, since IID will be able to transmit renewable energy from the Imperial Valley through the upgrade of its

existing interconnection with Southern California Edison (SCE) on Path 42. IID will also increase its export capability into SCE at the Devers Substation through a new IID project, the Coachella Valley-Devers II transmission line (CV-Devers II).<sup>1</sup> As detailed in IID's Phase II testimony the CV-Devers II Project will allow IID the ability to transfer renewable energy, be it geothermal, solar or wind connected to its grid to the California Independent System Operator at Devers Substation.<sup>2</sup> The project is one of the phases of a 500 kV Transmission line project that has already completed its environmental review and received rights-of-way across the federal land crossed by the project<sup>3</sup> thereby putting it ahead of the Sunrise Powerlink schedule.

B. GREENPATH NORTH

In SDGE's attempt to rebut UCAN's No-Action alternative, SDGE raises the issue that the Greenpath North Project is uncertain, therefore LEAPS would not provide direct access to Imperial Valley renewables.<sup>4</sup> However, SDGE fails to recognize that the Greenpath North is not necessary for LEAPS to access Imperial Valley renewables. As discussed in Section II(A) above, and in Section IV of IID's Phase II Opening Brief, access to renewable generation in Imperial Valley could come from IID's CV-Devers II line<sup>5</sup> not the Greenpath North.

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<sup>1</sup> Exh. ID-3 at 7; See also IID Phase II Opening Brief at 6-7.

<sup>2</sup> Exh. ID-3 at 8.. IID Phase II Opening Brief at 22. See also Transcript at 2647-2647.

<sup>3</sup> Transcript at 2646.

<sup>4</sup> SDGE Phase II Brief at 229-231.

<sup>5</sup> IID Phase II Opening Brief at 6.

### III. TRANSMISSION ALTERNATIVES FEASIBILITY

#### A. SOUTHERN ROUTE FEASIBILITY

In SDGE's Phase II Opening Brief, SDGE makes conclusory statements such as "[N]either [Aspen's Southern or Northern] route is feasible due to opposition from Indian tribes whose reservations those routes cross, given that SDGE has no legal ability to condemn Indian lands owned by the United States in trust for those tribes."<sup>6</sup> SDGE ignores the work that the DEIR/EIS Team has done to identify a southern route alternative (Modified Route D with BCD South Option)<sup>7</sup> that avoids Indian lands. SDGE witness Trexel acknowledged that the BCD South alignment in combination with the modified Route D option on the southern route would avoid Indian tribal land.<sup>8</sup> Based on SDGE's assumption that crossing Indian land makes both routes not feasible, the fact that the Southern route with a route D alternative does not cross Indian land then would qualify it as feasible under that definition of feasibility.

#### B. SDGE's PREFERRED SUNRISE ROUTE FEASIBILITY

In its Opening Brief, SDGE notes that "San Diego County has one of the highest percentages of public lands in the State, and to site a transmission line from Imperial Valley to the coast requires traversing, at a minimum, BLM land, Cleveland National Forest ("CNF") land or ABDSP."<sup>9</sup> In an attempt to persuade the CPUC to approve SDGE's preferred northern route, SDGE argues that the southern route is not feasible where such a route faces "... decisions outside the control of the State of California, in that Federal, and in some cases tribal approvals are necessary."<sup>10</sup> This statement actually diminishes the feasibility of SDGE's preferred northern route through Anza-Borrego

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<sup>6</sup> SDGE Phase II Opening Brief at 4.

<sup>7</sup> The Environmentally Superior Southern Route Alternative is explained in the DEIR/EIS at ES-3.

<sup>8</sup> Transcript at 4050.

<sup>9</sup> SDGE Phase II Opening Brief at 27.

<sup>10</sup> SDGE Phase II Opening Brief at 4.

Desert State Park (ABDSP). As IID explained in its Phase II Opening Brief there are at least ten (10) reasons/decisions that would still need to be made by the Bureau of Land Management (BLM), the California State Parks (CSP), or IID - an additional government entity that SDGE has no control over - in order to site Sunrise Powerlink along the northern route.<sup>11</sup>

SDGE has attempted to draw a distinction between decisions the CPUC could control in order to promote SDGE's preferred northern route and other decisions beyond the control of the State of California that are necessary to site the southern route. IID submits that this is not an accurate or meaningful distinction. In its Opening Brief SDGE argued that "[t]he Proposed Route does not cross any Indian lands or any lands within CNF."<sup>12</sup> The State of California does not have the authority to force the Federal Government either through the BLM or the Court System to recognize the existence or lack thereof of a transmission corridor through ABDSP. SDGE has cited no authority<sup>13</sup> to establish that even if the BLM recognized the existence of the corridor and reissued the right of way, that they would not issue it to the legal owner of the existing transmission line, the IID.

On page 33, footnote 46, of its Phase II Opening Brief, SDGE cites a July 5, 2007 BLM letter as proof that the existing transmission corridor exists through the Park and that it may be used for the Sunrise Project. IID submits that this is a gross mischaracterization of the letter from the State Office of BLM. The letter specifically states, that the BLM has not decided if it will support a route for the Sunrise Powerlink through ABDSP as the preferred National Environmental Policy Act alternative.<sup>14</sup> Clearly, the letter from the State BLM Office is not a federal permit for SDGE to build

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<sup>11</sup> IID Phase II Opening Brief at 10-12.

<sup>12</sup> SDGE Phase II Opening Brief at 31.

<sup>13</sup> On page 33, footnote 46, SDGE cites a July 5, 2007 BLM letter as proof that the existing transmission corridor exists through the Park and that it may be used for the Sunrise Project.

<sup>14</sup> Ex SD-105.

Sunrise Powerlink through ABDSP.

On pages 32-33 of the SDGE Opening Brief, after recounting the federal patents and correspondence regarding the existing transmission line through ABDSP, including recorded and prescriptive easements, SDGE states that at no time throughout the eighty-plus years that the existing transmission line has existed has any party questioned the validity of SDGE's rights for that line, including through any portion of the Park. This is simply a flawed attempt to imply that SDGE has held the legal rights to the transmission line right-of-way through the entire ABDSP. That implication is not correct. As SDGE witness Trexall admitted on cross examination,<sup>15</sup> IID owns the existing 92 kV transmission line from the Narrows substation to the eastern boundary of ABDSP. SDGE witness Niggli admitted that SDGE has not entered into any agreement with IID to utilize its right-of-way through ABDSP.<sup>16</sup> Furthermore, despite pages of argument concerning the validity of prescriptive easements,<sup>17</sup> SDGE has not offered any evidence that for the private or prescriptive easements on privately owned properties, that any court anywhere would allow another party to remove the perfected prescriptive easement owner (in this case IID) and replace it with another competing party seeking a similar use easement. SDGE has not produced any authority by which IID could be forced to give up its existing right-of-way rights through ABDSP. IID submits that uncertainty about the right-of-way through ABDSP demonstrates that SDGE's preferred Sunrise Powerlink route is the least feasible of all the alternative routes being considered. In direct contradiction of SDGE's claim that no one has questioned the validity of its claim to the right-of-way through ABDSP, two parties - State Parks and IID - have questioned SDGE's right-of-way claims through ABDSP for the past three (3) years.

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<sup>15</sup> Transcript at 4063-4068.

<sup>16</sup> Transcript at 3230.

<sup>17</sup> SDGE Phase II Opening Brief at 33-39.

#### IV. IMPACTS TO AGRICULTURAL LANDS IN IMPERIAL COUNTY

IID and the California Farm Bureau have repeatedly pointed out that SDGE has not adequately analyzed the true impact to farming in the Imperial Valley given unique and complex system of irrigation canals and drains used in the Imperial Valley. As the Farm Bureau noted in its Opening Brief, "the impacts to agricultural resources have the potential to be real, significant and in some cases dramatic, in contrast to what SDGE has attempted to portray."<sup>18</sup> SDGE seems to believe that all farming and livestock practices are the same when evaluating the effects of transmission lines near sensitive receptors.<sup>19</sup> IID agrees with the Farm Bureau's concerns regarding the possible seriousness of the impacts to agricultural lands. Because of the year-round warm, sunny weather in the Imperial Valley, many crops are grown year round.<sup>20</sup> The placement of transmission facilities on farms could severely impact a farm or farming operations.<sup>21</sup> Because SDGE's proposed northern route traverses more Imperial Valley farmland than the southern route, IID urges the Commission to select a route that has fewer impacts upon agriculture lands.

In addition, SDGE claims that it has mitigated the impact upon dairies in the Imperial Valley<sup>22</sup>. However, none of the considered alternatives have eliminated the dairies' concerns. The alternatives that bypass Bullfrog Dairy cross over the Dairy's calf operations.<sup>23</sup> The proposed northern route will also discourage the relocation of other dairies that have been considering relocating to Imperial County.<sup>24</sup>

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<sup>18</sup> California Farm Bureau Federation Phase II Opening Brief at 2.

<sup>19</sup> Id at 11.

<sup>20</sup> Id at 16.

<sup>21</sup> Id.

<sup>22</sup> SDGE Phase II Opening Brief at 112.

<sup>23</sup> Transcript at 5972.

<sup>24</sup> Id.

## V. RISK OF IID STRANDED INVESTMENT

In an attempt to justify its proposed southern route, SDGE<sup>25</sup> argues in its Opening Brief that the northern route would allow it to more easily connect to generators and resources within IID's control area. While IID disagrees with that assumption, it does suggest that one of the purposes behind SDGE proposing the northern route is to bypass IID's system which would result in stranded investment for IID. This justification, together with SDGE's assumption it can utilize IID's right-of-way through ABDSP without obtaining IID's approval, demonstrates that SDGE has not considered the impacts upon IID and its ratepayers caused by SDGE's proposed northern route.

It is important to note that IID worked collaboratively through the Imperial Valley Study Group (IVSG) with SDGE, the California Energy Commission, LADWP, renewable generators, and other stakeholders to develop the most economical and efficient way to transmit renewable energy from the Imperial Valley. IID supports the conclusion of the IVSG that a 500 kV connection between IID and SDGE will facilitate the export of renewable energy from the Imperial Valley. However, IID does not support selection of a route for such a line that will result in stranding millions of dollars of IID transmission investment or that has adverse impacts upon agriculture and dairy operations in Imperial Valley. IID submits that the goals of the IVSG can be accomplished by building the Sunrise Powerlink along the southern route. In its Opening Brief, SDGE admits that the southern route would have electrical performance similar to the northern route.<sup>26</sup> The southern route is shorter, less expensive, has fewer environmental and agriculture impacts, a less of a fire risk and avoids ABDSP. Therefore, IID submits that the southern route should be selected for Sunrise Powerlink.

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<sup>25</sup> SDGE Phase II Opening Brief at 69.

<sup>26</sup> SDGE Opening Brief at 147.

#### IV. CONCLUSION

IID has been a long-time supporter of the development of renewable energy in the Imperial Valley. IID's commitment to developing the renewable energy potential of Imperial Valley is demonstrated by the millions of dollars that the IID Board of Directors has committed to upgrade its transmission system to facilitate the export of renewable energy. While IID supports the Sunrise Powerlink project, it cannot support selection of SDGE's preferred northern route. IID simply cannot agree to a route that would have such adverse impacts upon agriculture lands and dairies in the Imperial Valley and presents a significant risk of stranded investment for IID ratepayers. IID supports selection of one of the southern routes for Sunrise Powerlink. The southern route will provide the same export capability for Imperial Valley renewables that the northern route does without the adverse impacts.

Respectfully submitted June 13, 2008 at Coronado, California.

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**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have served a true copy of the **IID PHASE II REPLY BRIEF** was served on all parties on the service list for Application No. 06-08-010 identified on the attached service list. Service was affected as appropriate by means indicated below:

- ✓ Placing the copies in properly addressed sealed envelopes and depositing such envelopes in the United States mail with first-class postage prepaid;
- ✓ Transmitting the copies via facsimile, modem, or other electronic means (Via Electronic Means); and

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13<sup>th</sup> day of June, 2008, at Coronado, California.

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