

**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.

Application 06-08-010  
(Filed August 4, 2006)

**COMMENTS OF UTILITY CONSUMERS' ACTION NETWORK ON THE  
ASSIGNED COMMISSIONER'S RULING REQUESTING COMMENTS ON  
REVISED SECTION 19**

On November 19<sup>th</sup>, Commissioner Dian M. Grueneich, the assigned Commissioner in this proceeding, proposed revised language for Section 19 (Revised Section 19) and seeks comments on the Revised Section 19 on or before December 1, 2008. UCAN appreciates the efforts of the Commissioner and offers the following observations about the Assigned Commissioner's revised conditions.

- Condition #1 which directs SDG&E to procure a cumulative total of 8,000 GWh/year of [new] Imperial Valley renewables to be delivered over Sunrise by no later than 2015 is unenforceable, as written. Moreover, it will not ensure the GHG emission reductions and economic benefits estimated for the Final Environmentally Superior Southern Route.
- If there is to be a gwh requirement for new renewable generation procurement as a precondition for Sunrise, that requirement needs to be closer to 14,000 gwh per year than 8,000 gwh per year due to the increased \$2 billion price tag that SDG&E has placed upon the southern route.
- The Condition #3 requirement that SDG&E shall refrain from procuring contracts for coal fired generation of five years or less is rendered meaningless, because a would-be seller of coal generation need only combine its coal generation with non-coal generation and sell the resulting generation in combination as "system power" to evade the condition.
- Counting existing contracts to satisfy Condition #3 is only appropriate if the target takes into account the non-Sunrise import capability, since most existing contracts are deliverable without Sunrise. Existing contracts with material breaches as of July 1, 2009 should not be considered viable for purposes of counting towards SDG&E's procurement requirement.
- Increasing the market price referent to make it more accurate or realistic should not mean that projects with prices above the (revised) market price referent will

automatically be approved. The Commission should retain its authority to review new RPS contracts, including any used to satisfy the Sunrise conditions, and retain its authority to reject proposed new RPS contracts on price or other grounds.

- “Imperial Valley-area generation” should be defined to include generation whose first point of interconnection is to the IID grid or to the Imperial Valley substation. It should also include generation interconnected to the Imperial Valley-Miguel line or the Sunrise line itself (but not generation interconnected at the Miguel or Sycamore Canyon substations), but only if the Commission is presented with a persuasive analysis showing that interconnection to the CAISO grid along the Imperial Valley-Miguel line will be less costly than interconnecting to the SDG&E system elsewhere.

These comments also draw attention to some factual errors upon which the conditions have been based. UCAN notes:

- The accurate number is for SDG&E’s renewable procurement at a 33% RPS level is 2721MW.
- The record shows that 33% RPS level can be and will be achieved with or without Sunrise.
- Renewable generation connected to the IID system, which includes at least 1698 Mw of the 2721 Mw identified in the AD (all 1600 Mw of geothermal, plus two 49 Mw solar projects), would not be subject to the 1150 Mw limit.
- UCAN concurs that there is a very real possibility that SDG&E’s remaining RPS obligations would be met largely through TRECs purchased from out-of-state renewable resources and that very little renewable development would occur in the Imperial Valley.
- The record supports the Commissioner’s concern that new Imperial Valley generation has not been and will not happen, even if Sunrise is constructed.

#### **A. Underlying Rationales for Conditions**

Revised Section 19 assumes renewable procurement at a 33% RPS level, Sunrise is estimated to generate significant economic benefits and to facilitate the development of over 2,800 MW of Imperial Valley renewable. The accurate number is 2721 MW (see AD, table 2, section 6.10). It also states that the Final Environmentally Superior Southern Route is the superior alternative because it will best facilitate renewable procurement at a 33% RPS level. This is not accurate. The record shows that 33% RPS level can be and will be achieved with or without Sunrise.

If it were true that failure to meet Sunrise would result in a failure to meet a 33% RPS goal, then it would also be true that failure to build Sunrise would save CAISO ratepayers \$393-420 million per year, because that's how much cheaper fossil-fired generation would be than Imperial Valley renewables. (See UCAN's November 20th comments).

Revised Section 19 also represents that there is a 1,150 MW dispatch limit for all generation connected to the Imperial Valley Substation, or to generation connected between the Imperial Valley – Miguel portion of the Southwest Powerlink.<sup>1</sup> It concludes from this fact that only a minimal amount of new Imperial Valley renewable generation can deliver to the Imperial Valley Substation, or along the Southwest Powerlink, absent Sunrise. This is also a factually erroneous statement. Renewable generation connected to the IID system, which includes at least 1698 Mw of the 2721 Mw identified in the AD (all 1600 Mw of geothermal, plus two 49 Mw solar projects), would not be “generation connected to the Imperial Valley Substation, or ... generation connected between the Imperial Valley – Miguel portion of the Southwest Powerlink” and thus would not be subject to the 1150 Mw limit.

The ISO has no authority to ban generators connected to the IID system from operating, any more than it can ban generators connected to the APS system from scheduling over the Palo Verde-Miguel SWPL line. Moreover, the 1150 Mw dispatch limit is not pre-reserved for any particular generators. Thus, it could be used entirely for renewable resources if renewable generators were willing to outbid fossil-fired generators for access.

Revised Section 19 is accurate and is very perceptive in noting that that Sunrise could be used to import fossil fired generation into California, if the Commission adopts “the proposed decision in R.06-02-012 (Renewable Portfolio Standard proceeding) that allows utilities to purchase tradable renewable energy credits (TRECs) in lieu of entering into contracts with renewable generators, there is even less assurance that the renewable generation in the Imperial Valley will be developed.” UCAN concurs that there is a very real possibility that SDG&E's remaining RPS obligations would be met largely through TRECs purchased from out-of-state renewable resources and that very little renewable development would occur in the Imperial Valley. UCAN shared the Assigned Commissioner's concerns that Sunrise would be used to

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<sup>1</sup> See Section 6.14.1 above.

import fossil fired generation or not used at all, except to carry generation that would otherwise have flowed over already existing lines, such as SWPL, and the ratepayers' \$2 billion investment in Sunrise would be uneconomic.

Finally, the Assigned Commissioner's states her concern that SDG&E and other California utilities are unlikely to develop the level of new Imperial Valley generation assumed by the ISO in this case in the absence of Sunrise conditions requiring that level of development be committed to before Sunrise is built. The record supports the Commissioner's concern. It shows that new Imperial Valley generation has not been happening. (See Ex. U-3 regarding IV renewables in general, and CBD testimony regarding the Stirling project in particular.) The record shows that the 1106 Mw of new IV renewables (300 Mw at Stirling, three 200 Mw geothermal projects, the 185 Mw CE Salton 6 project that was permitted by the CEC in 2003 but never built, and 21 Mw of wind projects) assumed on-line by January 2010 in the SDG&E and ISO modeling will not be built by that date. It is equally certain that subsequent 200 Mw projects are not in the pipeline for 2010-2014, since no CEC AFC filings have been made for such projects (see Ex. U-3).

## **B. Discussion of the Revised Conditions**

The revised language contains three conditions for Commission approval of Sunrise. All three are problematic. Condition #1 states that SDG&E shall procure a cumulative total of 8,000 GWh/year of [new] Imperial Valley renewables to be delivered over Sunrise by no later than 2015. As written, this condition is unenforceable, since there is no way to know what fraction of output scheduled from a particular Imperial Valley renewable generator would flow over Sunrise, and what fraction would flow over SWPL towards SDG&E, SWPL towards APS, Path 42 towards SCE, other IID transmission lines towards WAPA, or CFE lines from Imperial Valley substation towards Mexico. The following discussion assumes the "over Sunrise" portion of the condition will ultimately be dropped. Alternatively, the record shows that when new generation is added in the Imperial Valley area, only 115/400 (28.75%) of that generation flows over SWPL<sup>2</sup> Assuming the same fraction would apply for Sunrise, the requirement for a total of 8000

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<sup>2</sup> Ex. U-100, Section II.B.1.d.2, first paragraph, citing a Sempra federal filing.

gwh/year flowing over Sunrise would translate into a requirement that total Imperial Valley renewable additions by 2015 generate  $8000/.2875 = 27,826$  gwh/year.

When the Commissioner opines that “This is significantly less than the 2,800 MW of Imperial Valley renewable development the CAISO projects will occur as a result of Sunrise between 2011 and 2015” she is absolutely correct. This condition will not ensure the GHG emission reductions and economic benefits estimated for the Final Environmentally Superior Southern Route. The RPS analysis in this proceeding which shows net economic benefits from Sunrise is dependent upon assumed new<sup>3</sup> renewable generation in the Imperial Valley of 14,649 gwh by 2015.<sup>4</sup> Requiring only 8000 gwh per year would fall far short of what was assumed in the ISO’s economic analysis, and thus provide no assurance that Sunrise would produce net economic benefits, or net GHG reduction benefits for that matter. As another way of reaching the same conclusion, one can look at the planned expansion of SDG&E’s import capability due to Sunrise. The normal (all lines in service) import capacity of SDG&E is 2850 Mw, which will increase to 4200 Mw with Sunrise in service. That increase is 1350 Mw.

In addition, there is already at least 80 Mw of unused interconnection capability on SWPL.<sup>5</sup> So at a minimum, there would need to be 1430 Mw of additional imports into the SDG&E area to fully use the existing spare capacity from the Imperial Valley plus the increase attributable to Sunrise. 1430 Mw corresponds to 12,527 gwh per year. That would be over and above the generation from existing IID-area contracts such as Esmeralda, which do not depend upon Sunrise and are not constrained by the 1150 Mw ISO dispatch limiter because they interconnect to IID and not the CAISO. In short, the economic benefits the AD attributes to Sunrise are contingent upon some 14,000+ gwh of new renewable generation, and the increase in import capacity due to Sunrise (plus existing import capacity available for Imperial Valley renewables) would require a similar level of new generation to fill it. Thus, if there is to be a gwh

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<sup>3</sup> The ISO analysis also includes Imperial Valley generation from existing sources as part of the “30,319 gwh of RPS-compliant energy by 2007” which is included in both its with- and without-Sunrise cases. See Ex. I-2, p. 54 of 88 lines 6-7. All of this existing generation is, by definition, deliverable without Sunrise, since it is being delivered today.

<sup>4</sup> Ex. I-2, Tables 4.4 (sum of 9864 gwh/year “Imperial” and 4783 gwh/year “Imperial Path 42” resource clusters equals 14,649 gwh/year) and 4.7 (both Imperial valley resource clusters are fully developed by 2015 in the with-Sunrise case).

<sup>5</sup> The difference between the 1070 Mw of fossil generation currently interconnected at Imperial Valley substation or west of it along SWPL and the 1150 Mw simultaneous dispatch limit for such generation identified by the ISO in Phase 2 is 80 Mw. Of course, much more than 80 Mw of new renewables could flow via SWPL by either displacing some or all of the 1070 Mw of

*Footnote continued on next page*

requirement for new renewable generation procurement as a precondition for Sunrise, that requirement needs to be closer to 14,000 gwh per year than 8,000 gwh per year. This 14,000 gwh per year condition takes on greater importance in light of the \$2 billion price tag that SDG&E has placed upon the southern route.

In contravention of the evidentiary record, SDG&E asserts in its November 20<sup>th</sup> that it must increase the cost cap on Sunrise to \$2.071 billion, as compared to the \$1.719 billion cost cap in the AD. This is an increase of 20.5% (and an increase of 64% above the \$1265 million estimate in the original application, a number whose accuracy SDG&E was still defending in 2007).

The levelized cost of Sunrise with a \$1.719 billion capital cost is \$161.5 million/year (ISO, Exh. Compliance-1). Increasing the capital cost of Sunrise by 20.5% would increase its levelized cost by  $\$161.5 \text{ MM/yr} \times 0.205 = \$32.9 \text{ million per year}$ . That would reduce the cost advantage of Sunrise over in-basin generation from \$36 MM/yr to barely \$3 million/year, a truly tiny amount compared to the total cost of Sunrise. The B/C ratio of Sunrise versus in-basin generation with San Diego's cost cap would be less than 1.02<sup>6</sup>. Thus every single bit of new Imperial Valley renewable generation included in the ISO's RPS modeling would be needed, based on the record in this proceeding, to make Sunrise cost effective.

In the AD, the economics of Sunrise only become positive when the statewide RPS goal is raised from 20% to 33%, and the 33% goal is met with over 14,000 gwh/year of IV-area renewables in 2015 and all subsequent years (Ex. I-2, Table 4.7 for 14,000 gwh to meet RPS target). The AD shows that, even with a 33% RPS target and over 14,000 gwh/year of new Imperial Valley renewable generation, the net savings compared to an in-basin generation alternative are only \$36 million per year (Sunrise is \$110 MM/yr better than just building CTs for reliability; in-basin generation is \$74 MM/yr better than just building CTs; thus Sunrise is  $\$110 - \$74 = \$36 \text{ MM/yr}$  better than in-basin generation).

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Mexican fossil-fired generation, as happens in SDG&E's GridView modeling, or by flowing onto the grid north or east of Imperial Valley substation, outside the scope of the 1150 Mw limiter.

<sup>6</sup>  $\$161.5 + \$36 / (\$161.5 + \$32.9) = 197.5 / 194.4 = 1.0156$

Condition #2 states that SDG&E shall adopt a 33 percent renewable portfolio standard goal and shall adjust its procurement decisions accordingly. This clause is moot in light of Governor's Executive Order of November 18, 2008

Condition #3 states that SDG&E shall refrain from procuring contracts for coal fired generation of five years or less. This condition shall not apply to spot market purchases of system power.<sup>7</sup> Unfortunately, this condition is rendered meaningless, as discussed in UCAN's November 20th comments. A would-be seller of coal generation need only combine its coal generation with non-coal generation and sell the resulting generation in combination as "system power" to evade the condition. Such evasion can be expected to occur even if SDG&E attempts to act in good faith, since SDG&E will have no way of tracking the ultimate source of any "system" purchases it makes, particularly purchases in short-term "spot" markets.

Revised Section 19 notes that in regard to the first condition, SDG&E already has approximately 2,250 GWh/year of Imperial Valley renewable resources under Commission-approved contracts which can count toward this condition, provided that SDG&E verifies the viability of these contracts in R.08-08-009 no later than July 1, 2009. However, UCAN submits that counting existing contracts is only appropriate if the target takes into account the non-Sunrise import capability, since most existing contracts are deliverable without Sunrise. Either the gwh/year procurement contract needs to be at or above 14,000 gwh rather than 8,000 gwh/year (as discussed above) or existing contracts cannot be counted towards meeting the 8,000 gwh/year requirement. Thus, existing contracts with material breaches as of July 1, 2009 should not be considered viable for purposes of counting towards SDG&E's procurement requirement set forth herein. The Commission will need to be the judge of what constitutes a material breach, in light of the fact that the goal posts have already moved on the Stirling project: from 300 Mw on-line by 12/31/09 in the ISO's Phase 1 modeling to 300 Mw by 12/31/12 pursuant to the oral argument statements of Stirling's representative on November 7<sup>th</sup>.

Revised Section 19 states that to facilitate the procurement of viable Imperial Valley renewable resources, R.08-08-009 shall consider new measures to ensure that projects with demonstrated indicia of viability and also consider whether changes are needed to existing

milestone requirements or credit, collateral, and deposit provisions to address the issue of contract breach as well as develop and implement standard policies and procedures to quickly require the performance or termination of contracts once they are in breach. SDG&E is directed to include proposals to address both issues in its 2009 RPS Procurement Plan amendment and in the event that the market price referent or any other mechanism is a barrier to SDG&E's compliance with the requirement in this Section 19, and this barrier is not addressed in legislation by December 31, 2009, then the Energy Division shall consider measures to eliminate such barriers.

UCAN observes that increasing the market price referent to make it more accurate or realistic should not mean that projects with prices above the (revised) market price referent will automatically be approved. The Commission should retain its authority to review new RPS contracts, including any used to satisfy the Sunrise conditions, and retain its authority to reject proposed new RPS contracts on price or other grounds. As such, contracts which have not been approved by the Commission should not be countable towards meeting the annual gwh requirements for Imperial Valley generation set forth in this section.

UCAN recommends that for purposes of complying with this section of the Sunrise decision, "Imperial Valley-area generation" should be defined to include generation whose first point of interconnection is to the IID grid or to the Imperial Valley substation. It should also include generation interconnected to the Imperial Valley-Miguel line or the Sunrise line itself (but not generation interconnected at the Miguel or Sycamore Canyon substations), but only if the Commission is presented with a persuasive analysis showing that interconnection to the CAISO grid along the Imperial Valley-Miguel line will be less costly than interconnecting to the SDG&E system elsewhere.

### **C. Conclusion**

UCAN urges the Commission to impose sufficient conditions to ensure that SDG&E demonstrates that there is sufficient new renewable generation under contract to meet the

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<sup>7</sup> SDG&E voluntarily offered to comply with conditions 2 and 3 during our November 7, 2008 oral argument and the November 13, 2008 All Party meeting with Commissioner Grueneich.

gwh/year requirements of this section by 2015 or whenever the line is built. Upon a Commission determination that the gwh/year renewable generation requirements will be met, only then should SDG&E be allowed to proceed with construction. At a minimum, the actual start date of construction should be no sooner than two years before the date at which the Commission determines that new renewable generation will exceed 4783 gwh/year – which is the level assumed deliverable by the ISO in its RPS analyses of Imperial Valley generation without Sunrise.<sup>8</sup>

In addition, SDG&E should not be allowed to energize Sunrise, and not file to put Sunrise costs into FERC rates, until such time as the ISO certifies that it has rejected day-ahead schedules for at least 100 gwh of Imperial Valley renewable generation from generators not currently operating, due to lack of transmission space on the CAISO-controlled grid. This condition will reduce the risk that Sunrise will be built prior and used prior to its being needed for more than a de minimus level of renewable energy generation.

Respectfully submitted,

Dated: November 25, 2008

/s/

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<sup>8</sup> See Ex. I-2, Table 4.4 (4783 gwh from “Imperial Path 42” option), Figures 4.1, 4.2, and 4.3 (“Imperial Path 42” option is preferable in the loading order to “Imperial – Sunrise” option), and Table 4.6 (“Imperial Path 42” option is fully developed by 2015 in no-Sunrise “Base Case”).

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **COMMENTS OF UTILITY CONSUMERS' ACTION NETWORK ON THE ASSIGNED COMMISSIONER'S RULING REQUESTING COMMENTS ON REVISED SECTION 19** on all parties identified in A.06-08-010 on the attached service list by electronic mail and by overnight mail to the assigned Commissioner(s) and Administrative Law Judge(s). Dated at San Diego, California, this 25th day of November, 2008.

/s/

Laura Impastato

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## **APPENDIX (Rule 14.3 (b))**

### **PROPOSED ORDERING PARAGRAPHS TO THE SECTION 19 REVISIONS AS PROPOSED BY COMMISSIONER GRUENEICH**

- Until the Commission is convinced that SDG&E has demonstrated that there is sufficient new renewable generation under contract to meet the gwh/year requirements of this section by 2015, SDG&E will not be permitted to begin construction of the Sunrise line. Upon a Commission determination that the gwh/year renewable generation requirements will be met in 2015, SDG&E will be allowed to proceed with construction; however, the actual start date of construction shall be no sooner than two years before the date at which the Commission determines that new renewable generation will exceed 4783 gwh/year.
- SDG&E is prohibited from energizing Sunrise and it cannot file to put Sunrise costs into FERC rates, until such time as the ISO certifies that it has rejected day-ahead schedules for at least 100 gwh of Imperial Valley renewable generation from generators not currently operating, due to lack of transmission space on the CAISO-controlled grid.
- Increasing the market price referent to make it more accurate or realistic shall not mean that projects with prices above the (revised) market price referent will automatically be approved. The Commission retains its authority to review new RPS contracts, including any used to satisfy the Sunrise conditions, and retains its authority to reject proposed new RPS contracts on price or other grounds. Contracts which have not been approved by the Commission shall not be countable towards meeting the annual gwh requirements for Imperial Valley generation set forth in this section.
- For purposes of complying with this section of the Sunrise decision, “Imperial Valley-area generation” shall be defined to include generation whose first point of interconnection is to the IID grid or to the Imperial Valley substation. It shall also include generation interconnected to the Imperial Valley-Miguel line or the Sunrise line itself (but not generation interconnected at the Miguel or Sycamore Canyon substations), but only if the Commission is presented with a persuasive analysis showing that interconnection to the CAISO grid along the Imperial Valley-Miguel line will be less costly than interconnecting to the SDG&E system elsewhere.
- If sufficient renewable generation is identified to meet the conditions of this section that would interconnect to the grid at points at or west of the proposed

Jacumba substation, then construction of the Sunrise line will only be authorized from Jacumba west to Sycamore Canyon substation.