

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 No. 06-08-010
(Filed August 4, 2006)

Application 06-08-010
Exhibit No.: _____

**PREPARED REBUTTAL TESTIMONY OF
WILLIAM L. MASSEY
ON BEHALF OF SAN DIEGO GAS & ELECTRIC COMPANY**

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

June 15, 2007

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1 **II. QUALIFICATIONS**

2 Q. What are your qualifications to provide testimony on this subject?

3 A. I am a lawyer with a Juris Doctorate from the University of Arkansas School of Law and
4 an L.L.M. from Georgetown University Law Center in Washington, DC. From 1980
5 through 1989, I served in Washington, DC as Chief Counsel and Legislative Director for
6 U.S. Senator Dale Bumpers of Arkansas. Senator Bumpers was a senior member of the
7 Committee on Energy & Natural Resources of the United States Senate, and I advised
8 him with respect to all energy legislation that came before the committee or the full
9 Senate for a vote.

10 In 1993, President Bill Clinton appointed me to the position of Commissioner at
11 the Federal Energy Regulatory Commission (FERC), where I served, with the advice and
12 consent of the Senate, for two full five-year terms extending until December 2003. As a
13 Commissioner, I was actively involved in the licensing of hydroelectric facilities pursuant
14 to Part I of the Federal Power Act (FPA), and am very familiar with the Commission's
15 jurisdiction and legal authority under those provisions of law. I served longer than any
16 Commissioner in the history of FERC, casting over 28,000 votes on electricity,
17 hydroelectric licensing, and natural gas matters that came before the Commission. I
18 voted on several hundred hydroelectric licensing matters and was actively involved with
19 the shaping and implementation of the Commission's hydroelectric policies. In addition,
20 I was heavily involved with developing and implementing the Commission's policies
21 with respect to transmission of electricity, and in that context developed a good
22 understanding of high voltage transmission systems. In December 2003, at the end of my
23 second term as a Commissioner, I left the Commission. I joined the law firm of
24 Covington & Burling LLP in 2004.

1 **III. TE/VS PROJECT**

2 Q. What is your understanding of the TE/VS project?

3 A. My understanding is that the TE/VS project is a 28.5 mile 500 kV transmission line that
4 would run near, and connect with, the LEAPS project. The line would have a design
5 capacity of 1,000 MW and would be subject to the operational control of the California
6 ISO (CAISO). The TE/VS project would intersect an existing 500 kV line segment
7 between Southern California Edison Company's (SCE's) Valley and Serrano substations
8 to the north of the LEAPS project, and would intersect an existing 230 kV line segment
9 between SDG&E's Talega and Escondido substations (at the northern boundary of the
10 SDG&E transmission system) to the south of the LEAPS project.

11 The TE/VS line is intended to interconnect the LEAPS project with the
12 transmission grids of SDG&E and SCE, and its sponsor has indicated that it will increase
13 SDG&E's access to lower cost power in the Western Electricity Coordinating Council
14 (WECC) region and provide additional transmission import capability to the SDG&E
15 area to improve system reliability. It is my understanding that the TE/VS project may
16 have the ability to address certain of the reliability concerns identified by the CAISO.

17 My understanding of the TE/VS project is based on the June 1, 2007 testimonies
18 of Mr. Rexford Wait and Mr. Frederick Depenbrock submitted in this proceeding on
19 behalf of the Nevada Hydro Company, the Final Environmental Impact Statement (FEIS)
20 of the LEAPS project prepared by the FERC staff, and the FERC Order on Rate Request
21 regarding rates for the LEAPS project (The Nevada Hydro Company, Inc., 117 FERC
22 61,204, November 17, 2006). Except for matters related to the FERC licensing of the
23 TE/VS project, my testimony takes as given the facts represented in the foregoing
24 sources.

1 Q. What is the FERC’s statutory authority regarding licensing a transmission line as part of a
2 hydroelectric project?

3 A. Part I of the Federal Power Act (FPA) authorizes the FERC to license hydroelectric
4 projects. Section 3(11) of the FPA defines a “project” as:

5 complete unit of improvement or development, consisting of a power
6 house, all water conduits, all dams and appurtenant works and structures...
7 which are a part of said unit..., the *primary line or lines transmitting*
8 *power therefrom to the point of junction with the distribution system or*
9 *with the interconnected primary transmission system*, all miscellaneous
10 structures used and useful in connection with said unit or any part thereof.
11 [Emphasis added.]

12 Thus, in order to be licensed as part of a hydroelectric project, a transmission line
13 must be a “primary line” under the FPA.

14 The FERC has explained that the purpose of the FPA’s definition of a “primary
15 line” in section 3(11) was to ensure that if the federal government used its authority under
16 FPA section 14 to take over a project at the expiration of the project’s license, the
17 government ‘should be able to acquire a usable facility with the means of transmitting
18 power and at the same time not be saddled with the ... cost of acquiring the licensee’s
19 interconnected primary transmission system or portions of its distribution system.’² In
20 other words, the government should have a line available to transmit the project’s energy
21 to the grid.

22 Q. Under what conditions is a transmission line considered a primary line under the FPA?

² City of Tacoma, et al, Proposed Order Directing Interconnection Services and Ordering Further Procedures, Order Finding Licensing Required, and Notice of Intent to Reopen Licenses, 118 FERC ¶ 61,202 (2007) at P38.

1 A. The conditions under which a transmission line is considered a primary transmission line
2 have been succinctly described in a recent FERC order:

3 The Commission uses a two-pronged technical test for determining
4 whether a line is a primary transmission line: whether it is used solely to
5 transmit power from a Commission licensed project to the interconnected
6 distribution system, and whether without it there would be no way to
7 market the full capacity of the project. *Under this test, the line leading*
8 *from a project ceases to be a primary line at the point it is no longer used*
9 *solely to transmit all of the power from its project to the interconnected*
10 *grid.* The Commission has recognized that this is at bottom a case-
11 specific, factual inquiry. (Emphasis added, footnotes omitted)³

12 The sole criterion for determining whether a transmission line is a primary line
13 under the FPA is that the line carries only project power. The function of the line in the
14 system does not matter. The FERC provided that particular clarification in a recent order
15 by stating that the “question is not whether the line performs other network functions, but
16 rather whether the line carries only project power or other power as well.”⁴

17 Q. Are there other precedents that define what is and is not a primary line that are relevant to
18 the TE/VS project?

19 A. Yes. In finding that a 187-mile high voltage line from the Niagara project switchyard to
20 a Niagara Mohawk Power Corporation switchyard was no longer a primary line, the
21 FERC stated that the line “has become an integral part of the interconnected transmission
22 facilities in New York under the operational control of the New York Independent
23 System Operator (NYISO), which uses the line to transmit power from both project and
24 non-project sources.”⁵

³ Id. at P39.

⁴ Id at P45.

⁵ New York Power Authority, Order Denying Rehearing, 98 FERC ¶ 61,033 (2002) at 61,095.

1 The FERC deleted transmission lines from the licenses of several projects of
2 Pacific Gas and Electric Company because the lines “are not used solely to transmit
3 power from the projects to load centers, but rather are essential parts of PG&E’s
4 transmission and distribution system, carrying power from both project and non-project
5 sources. As such, the lines at issue are not primary lines requiring licensing.”⁶

6 In an order issued under delegated authority, the FERC staff removed from a
7 Southern California Edison Company project license a 288-mile transmission line
8 because it “provides the backbone transmission system that connects with SCE’s other
9 substations in the area to service customers....”⁷

10 Q. Does the TE/VS project meet the conditions required to be a primary line thus eligible to
11 be licensed by FERC as part of a hydroelectric project?

12 A. No. The TE/VS project is not a primary line. There are a number of indications that the
13 TE/VS project would carry more than the LEAPS project power. First, the line would
14 provide an interconnection between the 230/500 kV AC systems of SDG&E and SCE.
15 My understanding of high voltage AC systems is that power flows freely among
16 interconnections. The “transfer of electricity from one point to another will, to some
17 extent, flow over all transmission lines in the interconnection, not just those in the direct
18 path of the transfer.”⁸ As an AC system, the TE/VS project would carry energy south
19 from SCE’s system and possibly would carry energy north from SDG&E’s system.

⁶ Pacific Gas and Electric Company, Order Granting License Amendments, 85 FERC ¶ 61,411 (1998) at 62,559.

⁷ Southern California Edison Company, 98 FERC ¶ 62,024 (2002) at 64,034.

⁸ Van Nostrand’s Scientific Encyclopedia, D. Considine ed., 8th edition, (1995) at 1096.

1 Indeed, the design capacity of the line is 1,000 MW while the generating capacity of the
2 LEAPS project is only 500 MW. Clearly, the line is intended to carry more than the
3 output of the project power and would undoubtedly do so as an integral part of the
4 CAISO interconnected system. The TE/VS project would thus become part of the
5 backbone transmission system under the operational control of the CAISO and would be
6 used to transmit power from both the hydroelectric project and non-project sources.

7 This point is borne out by the fact that the TE/VS line can and will operate
8 independently of the LEAPS project to serve as an integral part of the California high
9 voltage system. Mr. Depenbrock testifies that the TE/VS line can function independently
10 of the LEAPS project and that the line alone, without the LEAPS project, is a “complete
11 alternative” to other transmission projects.⁹ Mr. Wait testifies that the TE/VS line is
12 expected to go into service in the fourth quarter of 2009, two full years ahead of the
13 expected operational date of the LEAPS project.¹⁰ Taking Mr. Wait’s in-service date and
14 design capability at face value, I believe it is reasonable to assume that during the period
15 between the commencement of transmission operations and pumped storage operations,
16 the TE/VS line would obviously not carry any project power, would operate as part of the
17 integrated CAISO system with the ability to carry energy up to its 1,000 MW design
18 capacity, and would continue to do so after the LEAPS project begins operation.

19 A second indication that the TE/VS project would carry more than LEAPS project
20 output is the intended use of the line. Mr. Wait’s testimony in this proceeding states that
21 the line will increase “SDG&E’s access to lower cost power supplies available in the

⁹ Depenbrock testimony 2: 16-18 and 5: 14- 17, June 1, 2007.

¹⁰ Wait testimony 3: 21 to 4: 2.

1 WECC region...”¹¹ In addition, the FERC FEIS for the LEAPS project observes that as
2 stated [by applicants], a benefit of the line would be to provide access to renewable,
3 lower cost and diverse energy resources.¹² If the line provides access to resources in the
4 WECC region, as represented by Mr. Wait, the TE/VS line would be used to carry more
5 than the energy output of the LEAPS project.

6 A third indication that the TE/VS project would carry more than LEAPS project
7 output is that connections to both SCE’s system and SDG&E’s system are not needed to
8 market the output of the project. The FERC FEIS for the LEAPS project finds that the
9 project would only require that the transmission line be constructed in one direction,
10 either north from LEAPs to SCE’s system or south from LEAPs to SDG&E’s system.
11 The FEIS goes on to explain that completing the connections to both systems would be
12 needed to provide the reliability and other benefits that are claimed for the TE/VS
13 project.¹³

14 Finally, taking Mr. Wait’s testimony at face value that the TV/ES transmission
15 line has a design capacity of approximately 1,000 MW, if the line could be used to import
16 1,000 MW, the line obviously would be carrying more than 500 MW, the generating
17 capacity of the LEAPS project.

¹¹ Wait testimony 3: 1-2.

¹² FERC FEIS, Appendix B at B-7 and B-8.

¹³ Id at B-21, paragraph 3.2.

1 **IV. CONCLUSION**

2 Q. Based upon your experience as a former FERC Commissioner knowledgeable about
3 hydroelectric matters, what is your opinion regarding whether the FERC may license the
4 TV/ES line as part of the LEAPS project?

5 A. It is my opinion that the TV/ES transmission line, as proposed and described by The
6 Nevada Hydro Company, does not meet the definition of a primary line under the FPA
7 and may not be licensed by the FERC as part of the LEAPS project.

8 Q. Is there another relevant source that corroborates your conclusion?

9 A. Yes. The FERC FEIS for the LEAPS project states the following:

10 “If the interconnection is made to either the northern or southern
11 route, as described above, and at a later time, the remaining
12 southern or northern portion of the TE/VS transmission line is
13 completed, the complete line would be able to carry non-project
14 power. The licensee could file to amend the license to exclude all
15 of the TE/VS transmission line, except the short segment from the
16 powerhouse substation to the TE/VS transmission line.”¹⁴

17 In other words, the FEIS correctly and explicitly acknowledges that the
18 “complete” TE/VS transmission line that has been proposed by the project sponsors, the
19 configuration that is able to provide the desired reliability benefits and import capability
20 with respect to diverse and lower cost energy resources, would be able to carry non-
21 project power and, in such circumstances, would be excluded from the LEAPs project
22 license.

23 Q. Does this conclude your testimony?

24 A. Yes.

¹⁴ Id at B-5, paragraph 1.2.4. It appears that the FERC staff evaluated both the pumped storage and the transmission line in the FEIS simply because that constitutes the whole of the requested action under the National Environmental Policy Act (NEPA).