

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

In the Matter of the Application of San Diego Gas and 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)

In the Matter of the Application of San Diego Gas and Electric Company (U 902 E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project

Application 05-12-014  
(Filed December 14, 2005)

**RESPONSE OF  
THE ELSINORE VALLEY MUNICIPAL WATER DISTRICT  
TO THE DRAFT ENVIRONMENTAL IMPACT REPORT/  
ENVIRONMENTAL IMPACT STATEMENT AND PROPOSED LAND USE PLAN  
AMENDMENT FOR THE PROPOSED SUNRISE POWERLINK PROJECT**

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The Elsinore Valley Municipal Water District (District) appreciates the opportunity to comment on the Draft Environmental Impact Report/ Environmental Impact Statement (Sunrise DEIR/DEIS) and Proposed Land Use Plan Amendment for the Proposed Sunrise Powerlink Project (Sunrise Project) issued on January 3, 2008.

**I. SUMMARY COMMENTS**

The Sunrise DEIR/DEIS analyzes and evaluates the Lake Elsinore Advanced Pumped Storage (LEAPS) Project and ancillary Talega-Escondido/Valley-Serrano 500-KV Interconnect (TE/VS) (collectively, the LEAPS Project) as an alternative to the Sunrise Project. As a proponent of the LEAPS Project and a future operator of the Project’s water-related facilities, the District’s primary concerns are that: (1) the Sunrise DEIR/DEIS improperly segments and piecemeals the LEAPS Project and appurtenant transmission lines into smaller portions in violation of the California Environmental Quality Act (CEQA); (2) the Sunrise DEIR/DEIS

cannot serve to approve or build any portion of the LEAPS Project; and (3) as a LEAPS Project proponent and the most appropriate CEQA lead agency for the LEAPS Project, the District should have been consulted in the Sunrise DEIR/DEIS' analysis of the LEAPS Project alternative. Accordingly, the District requests that the California Public Utilities Commission ("PUC") modify the Sunrise DEIR/DEIS to specifically state that (i) further environmental review of the LEAPS project as a whole under CEQA would be required to approve the LEAPS project and (ii) the scope of the environmental review of the LEAPS project included in the Sunrise DEIR/DEIS is insufficient to permit certification or approval of LEAPS as an alternative to the Sunrise project. The District also requests that it be consulted and provided with notice of any future meetings or discussions that involve the LEAPS project.

## **II. SEGMENTATION OF THE LEAPS PROJECT**

The Sunrise DEIR/DEIS analyzes the environmental impacts of alternatives to the Sunrise Project that were developed as a result of public and agency input. The DIER/DEIS identifies and analyzes a "LEAPS Transmission-Only Alternative" in addition to the LEAPS Project. According to the DEIR/DEIS, the LEAPS Transmission-Only Alternative contemplates building only the transmission component of the LEAPS project and excludes the pumped storage component.

The LEAPS Transmission-Only Alternative does not exist. In the Alternatives section of the Sunrise DEIR/DEIS, Table C-4 incorrectly states that the LEAPS Transmission-Only Alternative is under PUC, California Independent System Operator (CAISO), and Federal Energy Regulatory Commission (FERC) review. Section E.7.1.1 states that the LEAPS Transmission-Only Alternative would hypothetically be carried out by the District and The Nevada Hydro Company (TNHC), but could also be carried out by San Diego Gas & Electric

(SDG&E) or another entity. This Section also states that the LEAPS Transmission-Only Alternative would fully implement the “staff alternative” identified in the Final Environmental Impact Statement prepared by FERC for the LEAPS Project (FERC FEIS). However, the LEAPS Project has always contained both hydroelectric generation and transmission elements, and FERC and the United States Forest Service (USFS) released the FEIS in support of the permit application that examined the pumped storage facility and its ancillary transmission lines together.

The Sunrise DEIR/DEIS cites and incorporates by reference FERC’s FEIS for the LEAPS Project. For instance, in parts of section E.7.1, the Sunrise DEIR/DEIS evaluates the biological impacts of the LEAPS Transmission-Only Alternative by referring the reader to the biological impact section of the FERC FEIS. However, the FERC FEIS was prepared for the LEAPS Project as a whole. The LEAPS Transmission-Only Alternative—lacking the pumped storage component—has not undergone environmental review. FERC’s environmental review of the LEAPS Project was predicated on a dual-faceted pumped storage and transmission project; the impacts of a standalone transmission facility could differ significantly from a dual-faceted generation and transmission project with respect to water quality impacts, transmission routing land use impacts, and other issues. Without independent environmental review, these impacts cannot be meaningfully evaluated. As such, the Sunrise DEIR/DEIS cannot rely on the FERC FEIS in its analysis of the LEAPS Transmission-Only Alternative.

Section E.7.1.1 states that the District and TNHC have filed an application with the USFS for the LEAPS Transmission-Only Alternative project. This statement is misleading, and fails to mention that the LEAPS Project has always contained both generation and transmission components. The District’s application with the USFS includes only the transmission portion of

the LEAPS Project because it is the transmission portion of the LEAP Project that is primarily located on federal lands. The LEAPS Project itself has always included the pumped storage component, but the pumped storage portion would be located primarily on state lands. The Bureau of Land Management (BLM) has no jurisdiction over state lands and could not issue a permit covering the pumped storage component, so the District limited its USFS application to the transmission facilities only. The District has always maintained, and the permitting history of the LEAPS Project confirms, that pumped storage is the heart of the LEAPS Project.

Section E.7.1.1 states that “SDG&E has raised concerns about the ability of the LEAPS Transmission-Only Alternative to provide economical access to renewable generation.” If the Sunrise DEIR/DEIS had evaluated the LEAPS Project as a whole, instead of segmenting it into pieces, this concern would be moot because the LEAPS transmission lines are an ancillary conduit for the pumped storage renewable generation. Similarly, section E.7.1.11 states that operation of the LEAPS transmission line in the absence of the LEAPS generation component could result in indirect air quality impacts. The Sunrise DEIR/DEIS should have evaluated the LEAPS Project as a whole instead of segmenting the transmission component, in order to avoid this and other impacts stemming from a piecemealed project.

Section E.7.1 cites and incorporates the Protection, Mitigation, and Enhancement Measures (PMEs) required by FERC as part of the project description for the LEAPS Transmission-Only Alternative. FERC’s review of the LEAPS Project, including the recommended PMEs, assumes that the LEAPS Project contains both generation and transmission components. Since the PMEs are tailored and required for the dual-faceted LEAPS Project, the Sunrise DEIR/DEIS cannot simply subsume them into the project description for the LEAPS Transmission-Only Alternative.

Section E.7.1.12 evaluates the water impacts of the LEAPS Transmission-Only Alternative. This section does not discuss the water impacts of the pumped storage component, but purports to rely on the FERC FEIS, which analyzed water impacts based on a dual-faceted LEAPS Project. This section should either analyze the LEAPS Project as a whole or it should not rely on the FERC FEIS at all, since the water impacts of a standalone transmission facility would be vastly different from the water impacts of a pumped storage and ancillary transmission facility as identified in the FERC FEIS.

### **III. THE SUNRISE DOCUMENTS ARE INSUFFICIENT TO APPROVE OR BUILD THE LEAPS PROJECT**

The PUC cannot rely on the Sunrise DEIR/DEIS in lieu of preparing an environmental impact report (EIR) for the LEAPS Project. The LEAPS and Sunrise Projects are both large projects with significant environmental impacts, but they are geographically remote and environmentally distinct, and the agencies and public participants involved in the LEAPS and Sunrise Projects are not the same. For example, the USFS would be a responsible or lead agency for the LEAPS Project since much of the ancillary TE/VS lines would be built on USFS land, but the Sunrise DEIR/DEIS fails to identify the USFS as a responsible agency.

The PUC cannot rely on the cursory environmental review of the LEAPS Project that is contained in the Sunrise DEIR/DEIS for purposes of approving or building the LEAPS Project. A reliable environmental impact analysis is dependent upon an accurate project description, since the project description provides a baseline for evaluating alternatives. For instance, a project-specific EIR for the LEAPS Project would consider a set of alternatives specific to the LEAPS project objectives, and which would likely differ from the alternatives considered in the Sunrise DEIR/DEIS. These could include different project configurations, different routing

alternatives in the proposed area, different generation sources, and a study of the “no project” alternative at the Lake Elsinore and TE/VS sites.

A project-specific EIR is also necessary to facilitate public notice and comment, since the project description frames the scope of the project’s disclosure requirements. “Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal . . . . An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.) The public and decisionmakers must have an opportunity to review and comment on the LEAPS Project *as the project under review*. Because the Notice of Preparation for the Sunrise Project did not specify that the LEAPS Project could be chosen as an outcome of the Sunrise Project proposal, the public and decisionmakers were not put on notice that the Sunrise DEIR/DEIS comment period would constitute their opportunity to comment on the LEAPS Project. The CEQA analysis for the LEAPS Project cannot take place in the Sunrise proceeding.

Moreover, the Sunrise DEIR/DEIS is not intended to serve to build the LEAPS Project. For instance, section D.16 of the DEIR/DEIS states that full documentation of grading plans, environmental assessments, engineering and geotechnical reports for slope and erosion hazards would be available for the LEAPS Project. This statement assumes that LEAPS will undergo a full project-specific environmental review.

CEQA allows a lead agency to choose and implement project alternatives in lieu of the proposed project, but LEAPS is a fundamentally different project requiring separate project-specific review. A LEAPS EIR should be separate, construction-level detailed, and should include lines, generation, reservoirs and system improvements to Southern California Edison

(SCE) and SDG&E. The LEAPS Transmission-Only Alternative is studied as a *hypothetical* project alternative in Sunrise DEIR/DEIS; it is not an existing standalone project. Analysis of the LEAPS Transmission-Only Alternative as a standalone project would differ greatly from Sunrise DEIR/DEIS' analysis, which studied the alternative only to the extent that it was compared against the Sunrise Project.

Sections E.7.1 and E.7.2 state that no agency or other entity has proposed measures to address the LEAPS Project's potential impacts on air quality during the LEAPS public comment and consultation periods. However, the comment periods for the LEAPS Project are not complete. No EIR has been prepared for the LEAPS Project, and the public comment period for the Draft Proponent's Environmental Assessment (PEA) is still open. As such, the public's opportunity to comment on the LEAPS Project has not yet been completed, and those future comments may uncover additional issues that the Sunrise DEIR/DEIS has not addressed. Accordingly, the District requests that the PUC modify the Sunrise DEIR/DEIS to specifically state that (i) further environmental review of the LEAPS project as a whole under CEQA would be required to approve the LEAPS project and (ii) the scope of the environmental review of the LEAPS project included in the Sunrise DEIR/DEIS is insufficient to permit certification or approval of LEAPS as an alternative to the Sunrise project.

#### **IV. CONSULTATION WITH THE DISTRICT AS PROPONENT AND POTENTIAL LEAD AGENCY**

The District is the named permit holder for the LEAPS Project with FERC and the USFS, yet its role with respect to the LEAPS Project is not described in the Sunrise DEIR/DEIS. In addition to obtaining the required regulatory approvals, the District's role in the LEAPS Project will require it to provide water for the hydroelectric facility, maintain water quality to levels



necessary for the project's continued operation, and maintain surface water elevation in Lake Elsinore as outlined in section E.7.2 of the Sunrise DEIR/DEIS. In order to accomplish these tasks, the District will be required to take further discretionary actions related to the Project, including, but not limited to, actions related to the LEAPS Project's water supply and water-related operations. Because of its role as a proponent and future operator of the LEAPS Project's water-related components, the District is best situated, both practically and legally, to determine the LEAPS Project's environmental impacts – particularly at a local level. Accordingly, the Sunrise DEIR/DEIS should recognize the District's role and should have included consultation with the District. Instead, Appendix 4 of the Sunrise DEIR/DEIS makes clear that only TNHC – and not the District – was consulted for the preparation of the LEAPS Alternatives sections.

The Sunrise DEIR/DEIS cites and incorporates by reference the Screen Check Draft Environmental Impact Report (Screen Check DEIR) for the LEAPS Project. Section E.7.4 states that the Screen Check DEIR document was prepared by the District in 2007. In fact, this document was prepared unilaterally by TNHC and submitted to the PUC without the District's consent or review. The District was not given the opportunity to comment on the Screen Check DEIR even though the District is a proponent and permit-holder for the LEAPS Project. No EIR has been prepared or certified for the LEAPS Project. Accordingly, the District requests that it be consulted and provided with notice of any future meetings or discussions that involve the LEAPS project.

## **VII. CONCLUSION**

In summary, the Sunrise DEIR/DEIS has improperly segmented the LEAPS Project and ancillary transmission lines, has failed to consult the District in evaluating the LEAPS Project alternative, and has mischaracterized the District's role as LEAPS Project proponent and

potential lead agency. Additionally, the Sunrise DEIR/DEIS is both procedurally and substantively insufficient to build any portion of the LEAPS Project.

Thank you for the opportunity to respond to the Sunrise DEIR/DEIS. The District respectfully requests that the Commission consider the foregoing response in its evaluation of the Application for the Proposed Sunrise Powerlink Project.

Respectfully submitted,

A handwritten signature in blue ink that reads "RE Young". The letters are cursive and fluidly connected.

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