

Case No. E030783

COURT OF APPEAL – STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

RALPH E. and SALLY MORTON, et al.

Petitioners,

vs.

THE SUPERIOR COURT FOR THE COUNTY OF RIVERSIDE

Respondent.

SAN DIEGO GAS & ELECTRIC COMPANY,
Real Party in Interest.

Appeal from Riverside County Superior Court Case No. RIC364308
The Honorable Robert G. Spitzer, Judge

APPLICATION OF CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF
IN SUPPORT OF REAL PARTY IN INTEREST
SAN DIEGO GAS & ELECTRIC COMPANY

CALIFORNIA INDEPENDENT SYSTEM
OPERATOR

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Attorney for *Amicus Curiae*

Pursuant to Rule 14(c) of the California Rules of Court, the California Independent System Operator (“ISO”) requests leave to file the accompanying amicus curiae brief in support of Real Party in Interest San Diego Gas & Electric Company (“SDG&E”).

The ISO is a nonprofit public benefit corporation responsible under California Law for the efficient use and reliable operation of the transmission systems of the California Investor Owned Utilities, including that of San Diego Gas & Electric Company (“SDG&E”), and such other transmission systems as are placed under ISO operational control. In particular, Public Utilities Code Section 345 provides:

The Independent System Operator shall ensure efficient use and reliable operation of the transmission grid consistent with achievement of planning and operating reserve criteria no less stringent than those established by the Western Systems Coordinating Council and the North American Electric Reliability Council.

The ISO has a strong interest in an efficient process for the permitting and construction of transmission projects that it has identified as necessary. Without such a process, the ISO will be unable to meet its statutory responsibility to provide for the efficient use and reliable operation of the transmission grid. At issue in the case before the Appellate Court is the ability of a public utility corporation to enter onto private land to conduct land surveys and environmental studies in conjunction with proposed transmission facilities. This issue is of industry-wide significance, as it affects all public utilities’ ability to access private land

for purposes of making preliminary evaluations relating to transmission facilities within a public utility's service area.

Specifically, the ISO's *amicus curiae* brief will address the following points: (1) the Superior Court's order at issue is consistent with Public Utilities Code Section 625 because it relates to pre-condemnation activities only and because SDG&E is otherwise complying with the requirements of Public Utilities Code Section 625; and (2) the Superior Court's order is in the public interest because it will expedite full and thorough review of the Valley-Rainbow Interconnect Project by the California Public Utilities Commission.

In summary, the ISO is vitally interested in the precedential outcome of this case, as it will have an industry-wide impact on the ability of public utilities to conduct pre-condemnation activities and the ability of the California Public Utilities Commission to efficiently undertake a full and thorough review of transmission projects determined to be needed by the ISO. The ISO therefore requests the opportunity to file an *amicus curiae* brief, which the ISO believes will be of substantial assistance to the Court in resolving this proceeding. The ISO has reviewed the trial court briefs and the trial court's opinion in this case and is familiar with the questions involved in this case and the scope of their presentation, and believes there is a necessity for additional argument regarding the consistency of the

Superior Court's order with Public Utilities Code Section 625, and the public interest.

For the foregoing reasons, and to more fully present the foregoing arguments, the ISO respectfully requests leave to file the attached amicus curiae brief.

Dated: January 30, 2002

Respectfully submitted,

CALIFORNIA INDEPENDENT
SYSTEM OPERATOR

By _____
Jeanne M. Solé
Attorney for *Amicus*
Curiae
California Independent System
Operator

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[PROPOSED] ORDER GRANTING APPLICATION OF CALIFORNIA
INDEPENDENT SYSTEM OPERATOR FOR LEAVE TO FILE
AMICUS CURIAE BRIEF IN SUPPORT OF REAL PARTY
IN INTEREST SAN DIEGO GAS & ELECTRIC COMPANY

The application of California Independent System Operator (“ISO”) for permission to file an *amicus curiae* brief in support of Real Party in Interest San Diego Gas & Electric in the above-entitled case having been considered, and proof having been made to the satisfaction of the Presiding Justice that such permission should be granted,

IT IS HEREBY ORDERED THAT permission is granted to the ISO for leave to file an *amicus curiae* brief in the above-entitled case.

IT IS FURTHER ORDERED THAT the *amicus curiae* brief of the ISO that was submitted to the Court on January 31, 2002 together with the application for permission to file the brief hereby be filed with the Court.

IT IS FURTHER ORDERED THAT any answer to the *amicus curiae* brief be filed within _____ days of the filing of the *amicus curiae* brief.

Acting Presiding Justice
James D. Ward