

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System) Docket No. ER12-1312-000
Operator Corporation)

**ANSWER TO PROTEST OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation hereby answers the protest submitted in this proceeding by The Nevada Hydro Company (“Nevada Hydro”)¹ in response to the ISO’s submittal on March 21, 2012 of a notice of termination of the Large Generator Interconnection Agreement (“LGIA”) among Nevada Hydro, San Diego Gas & Electric Company (“SDG&E”), and the ISO.² For the reasons explained below, the Commission should reject Nevada Hydro’s arguments and should accept the notice of termination of the LGIA effective November 7, 2011, as proposed in the ISO’s March 21 filing.

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO tariff, the Large Generator Interconnection Procedures (“LGIP”) set forth in Appendix U to the ISO tariff, and the Large Generator Interconnection Agreement that the ISO proposes to terminate in this proceeding. The ISO is sometimes referred to as the CAISO.

² The ISO submits this answer pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. The ISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to Nevada Hydro’s protest. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. See, e.g., *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008); *California Independent System Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011). In addition to Nevada Hydro’s protest, SDG&E filed comments supporting the ISO’s March 21 filing, and motions to intervene were filed by: the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California; and the City of Santa Clara, California d/b/a Silicon Valley Power, and the M-S-R Public Power Agency.

I. ANSWER

A. The LGIA Requires Nevada Hydro to Achieve an In-Service Date by April 26, 2015, Unless All Parties Agree to an Extension of the In-Service Date

Nevada Hydro argues that the milestone dates set forth in Appendix B to the LGIA are only estimated dates and that the ISO cannot terminate the LGIA for failure to meet them.³ However, the ISO has never argued that Nevada Hydro's failure to meet specific milestone dates is, in and of itself, grounds for termination. As the ISO explained in its March 21 filing, the significance of the missed milestones is that the LGIA requires that the milestones be achieved in sequence, and because Nevada Hydro has not yet met any of the milestones, it is not feasible for Nevada Hydro to achieve an In-Service Date in accordance with the requirements of the LGIA and LGIP.⁴

Appendix B to the LGIA requires that the In-Service Date "shall be in accordance with Section 3.5.1 of the LGIP," and the relevant language in Section 3.5.1 of the LGIP states that "[t]he In-Service Date may succeed the date the Interconnection Request is received by the CAISO by a period of up to ten years, or longer where the Interconnection Customer, the applicable Participating TO, and the CAISO agree, such agreement not to be unreasonably withheld." The ten-year period set forth in Section 3.5.1 of the LGIP is taken directly from the *pro forma* LGIP issued in the Commission's Order No. 2003 proceeding. In that proceeding, the Commission rejected proposals to make the period longer than

³ Nevada Hydro at 2-4, 7-10.

⁴ March 21 filing at 4-5.

ten years.⁵ Therefore, Nevada Hydro’s claim that it has an “absolute right to change the In-Service Date” to any date it pleases is contradicted by the express terms of the LGIA and the LGIP.⁶

B. The Evidence Shows that Nevada Hydro Cannot Achieve an In-Service Date of April 26, 2015 for the LEAPS Project, and It Is Reasonable for the ISO and SDG&E to Decline to Agree to an Extension of the In-Service Date

The ISO received Nevada Hydro’s interconnection request on April 26, 2005.⁷ Therefore, the ten-year period set forth in Section 3.5.1 of the LGIP will end three years (36 months) from now, on April 26, 2015. Given the current status of the LEAPS project, it is impractical for LEAPS to achieve an In-Service date within this time frame:

- Nevada Hydro is still in the midst of the preliminary hydroelectric permitting process before the Commission, with a series of sizable and time-consuming steps that must be completed before the LEAPS project can achieve operation.
- The Elsinore Valley Municipal Water District has terminated its agreement with Nevada Hydro to jointly develop the LEAPS project. As the Commission noted in its order denying rehearing of the LEAPS permit application, Nevada Hydro’s assertion that it could operate the project without the District’s cooperation “does not seem promising,” given that

⁵ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, at P 100 (2004) (citation omitted).

⁶ See Nevada Hydro at 3.

the LEAPS project would need to utilize District facilities (*i.e.* Lake Elsinore).⁸

- The California State Water Resources Control Board has denied Nevada Hydro's request for a water quality certification for the LEAPS project.
- An administrative law judge in the California Public Utilities Commission siting proceeding regarding the transmission line that Nevada Hydro planned to use to interconnect the LEAPS project recently issued a proposed decision dismissing Nevada Hydro's application.
- Per the terms of the LGIA, two years will be needed to complete construction of the SDG&E-owned facilities necessary to interconnect LEAPS. As indicated in the ISO's March 21 filing, Nevada Hydro has not yet provided SDG&E with notice to proceed with construction, and has failed to provide the ISO or SDG&E with any indication as to when such notice would be forthcoming.

In summary, in the seven years since it submitted its interconnection requests, Nevada Hydro has failed to achieve even the most fundamental commercial and regulatory objectives necessary to develop the LEAPS project. Indeed, given the withdrawal of the Elsinore Valley Municipal Water District, it is difficult to see how LEAPS could be developed in a manner that even resembles the project described in its interconnection request. Given these facts, the ISO and SDG&E appropriately requested that Nevada Hydro provide assurances that it could meet its LGIA obligations. Nevada Hydro has provided no information whatsoever,

⁸ *The Nevada Hydro Company, Inc.*, 137 FERC ¶ 61,133 (2011) at n. 16.

either through its communications with SDG&E and the ISO, or in its protest, as to how the LEAPS project could still be viable or when it might be able to achieve commercial operation.

As the Commission is well aware, one of the primary challenges facing the ISO, as well as other independent transmission providers, has been in implementing a process that provides viable projects an efficient path to commercial operation and interconnection. A key part of any such process is ensuring that speculative and other non-viable projects either do not enter the queue, or can be removed when it is clear that they do not have a path to reach commercial operation within a reasonable timeframe. In this respect, it is vitally important that the ISO be able to apply and enforce the Commission-mandated timelines for projects to achieve commercial operation.

For these reasons, and in light of Nevada Hydro's inability to achieve even the most basic developmental objectives necessary to bring the LEAPS project to fruition, or to provide information on how it might achieve these objectives within a reasonable timeframe, it is entirely appropriate for the ISO and SDG&E to: i) conclude that Nevada Hydro is unable to fulfill its LGIA obligation to meet an In-Service Date within the 10-year period from receipt of the interconnection request; and ii) to decline to agree to an extension of the In-Service Date beyond the ten-year point. As such, termination of the Nevada Hydro LGIA is warranted.

B. Nevada Hydro Presents No Sufficient Reason in Its Protest for Rejecting the ISO's Notice of Termination

In lieu of any evidence in its protest to establish that the LEAPS project could be in-service by April 26, 2015, or that there is good reason for the ISO and SDG&E to agree to extend this date, Nevada Hydro raises two meritless arguments as to why the Commission should reject the ISO's notice of termination. First, Nevada Hydro argues that the ISO should be prevented from "preemptively" terminating the LGIA. This argument is fundamentally flawed, as it implies that a transmission provider has no recourse against a customer with an interconnection agreement until the date on which the project would be required to come online (i.e. 10 years after the interconnection request), even when the facts clearly establish that the project will be unable to achieve this date before it actually occurs. Such a policy would undermine the efficiency of the ISO's interconnection process by severely hampering the ISO's ability to remove demonstrably non-viable projects from its queue. This, in turn, would harm viable projects because the ISO would be required to include unrealistic assumptions in its planning and study process.

As explained above, Nevada Hydro has failed to achieve any meaningful progress towards the development of the LEAPS project in the seven years since it filed its interconnection request. In both formal and informal communications with Nevada Hydro, the ISO and SDG&E have sought information from Nevada Hydro as to how the LEAPS project could continue to be viable and when it would be able to achieve commercial operation. Nevada Hydro has consistently

declined to provide meaningful feedback on these issues. Therefore, it is reasonable for the ISO and SDG&E to conclude that the LEAPS project will not be able to achieve commercial operation within 10 years of its interconnection request and to terminate the LGIA with Nevada Hydro without having to wait three more years.

Nevada Hydro also contends that even if the LEAPS project cannot achieve an In-Service Date in accordance with the LGIA, the milestone dates set forth in Appendix B to the LGIA, including the In-Service Date, may be met by the TE/VS Interconnect project rather than the LEAPS project.⁹ In this regard, Nevada Hydro states that it “filed an application for a Certificate of Public Convenience and Necessity (‘CPCN’) with the California Public Utilities Commission (‘CPUC’). This application was accepted and is being processed in CPUC docket A.10-01-001.”¹⁰ Nevada Hydro also states that it “now believes that it could have the TE/VS Interconnect energized within 14 months.”¹¹

First, the Commission should reject this attempt to substitute the TE/VS transmission project for the LEAPS project. The LEAPS project is the project subject to the generator interconnection request, as well as the LGIA, and therefore, the LEAPS project must comply with the relevant In-Service

⁹ *Id.* at 8-9. Normally the In-Service Date is the date that the Interconnection Customer’s Large Generating Facility will go into service. However, in this special case Nevada Hydro proposes to use the In-Service Date of the TE/VS Interconnect project. Nevada Hydro asserts that using the In-Service Date of the TE/VS Interconnection project is permissible under the Commission’s 2008 order regarding the LGIA. *Id.* The Commission, however, issued its directives in 2008 based on a very different set of facts than those that now exist. As discussed below, there is no realistic possibility that the TE/VS Interconnect project will be in service anytime in the foreseeable future.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 15.

requirements as discussed above. Moreover, Nevada Hydro’s argument that the Commission’s 2008 order on the LEAPS LGIA allows for a different outcome mischaracterizes that decision. Therein, the Commission directed the ISO and SDG&E to include in the LEAPS LGIA an In-Service date that might be earlier than the date on which the LEAPS project was energized, so that the TE/VS Interconnect line would not necessarily have to wait for the completion of the LEAPS project to be brought online. However, the Commission explicitly recognized that these were two separate projects, and that its decision did not substitute for a finding as to the relative merits of the TE/VS Interconnect line in the ISO’s transmission planning process. Moreover, the Commission did not state or suggest that an earlier In-Service Date excused the LEAPS project from compliance with the LGIA obligation to achieve an In-Service date within 10 years of the date of its interconnection request.

Second, the Commission should reject Nevada Hydro’s assurances that the TE/VS Interconnect will achieve an In-Service Date in the foreseeable future. Nevada Hydro fails to inform the Commission that, on April 3, 2012, the assigned administrative law judge in the CPUC proceeding issued a proposed decision (“April 3 Proposed Decision”) dismissing without prejudice (for the second time) Nevada Hydro’s application for a CPCN for the TE/VS Interconnect project.¹² The April 3 Proposed Decision explains that dismissal is based on Nevada

¹² The April 3 Decision, which was issued over a week before Nevada Hydro filed its protest, is provided in Attachment A hereto and is available on the CPUC’s website at <http://docs.cpuc.ca.gov/published/proceedings/A1007001.htm>.

Hydro's persistent inability to provide the CPUC with sufficient project information to assess the CPCN application:

The [CPUC] cannot afford to squander its resources on applications that, despite over 18 months of work, remain vague and speculative as to financing plan and indeed the project description itself. Nevada Hydro has had ample opportunity in this application and in previous applications to develop its project description and financing plan appropriately, and to confirm that it can present its case-in-chief that includes with specificity how it will interconnect with both SDG&E and SCE's systems and that the CAISO will accept control as the grid operator. This has not occurred. In sum, despite months of work and resources expended by this [CPUC], the parties, and the project proponent itself, Nevada Hydro has not yet provided the [CPUC] with a full and complete application that would allow us to assess the economics and need of the proposed project. Because its financial wherewithal to proceed with the project is not readily apparent, we dismiss this application.¹³

In addition, the April 3 Decision set forth a series of conditions that Nevada Hydro is required to meet before a new application can be submitted to the CPUC, including hosting a technical workshop to address issues regarding the TE/VS Interconnect project and providing any preliminary application to the CPUC Energy Division Staff for its review and approval.¹⁴ Even if Nevada Hydro were to submit a new application to the CPUC that satisfies the requirements, the CPUC proceeding that culminated with Nevada Hydro's application being dismissed by the April 3 Decision lasted over 18 months,¹⁵ and Nevada Hydro provides no reason to believe that a proceeding on any new Nevada Hydro application would be any shorter.

¹³ April 3 Decision at 10.

¹⁴ *Id.* at 11-13.

¹⁵ See <http://docs.cpuc.ca.gov/published/proceedings/A1007001.htm> (indicating that CPUC proceeding A.10-007-001 began on July 20, 2010).

In addition to the CPCN, the TE/VS Interconnect project must meet ISO and Commission requirements before it could achieve its In-Service Date. In an order issued in 2009 in the LEAPS project proceeding, the Commission clarified “the need for study of the proposed TE/VS Interconnect under CAISO’s transmission planning process,”¹⁶ which would first require a determination of project need by the ISO. Moreover, to obtain rate recovery, Nevada Hydro would have to obtain ISO acceptance of an application to become a Participating Transmission Owner, execute the Transmission Control Agreement, and file and receive Commission approval of its transmission revenue requirement.

C. The Pending Interconnection Agreement between Southern California Edison and Nevada Hydro Does Not Alter the Obligations of Nevada Hydro under its LGIA with SDG&E and the ISO

Nevada Hydro acknowledges that the LEAPS project is subject to two Large Generator Interconnection Agreements: (1) the LGIA for the interconnection of the LEAPS project to the transmission system owned by SDG&E, which the Commission accepted in 2009 and which the ISO proposes to terminate in this proceeding (referred to below as the “SDG&E LGIA”); and (2) a new, unexecuted Large Generator Interconnection Agreement among Nevada Hydro, the ISO, and Southern California Edison Company (“SCE”) for the interconnection of the LEAPS project to the transmission system owned by SCE, which the ISO filed for Commission acceptance on March 21, 2012 in Docket No.

¹⁶ *Nevada Hydro Co. and California Independent System Operator Corp.*, 129 FERC ¶ 61,098, at P 25.

ER12-1305-000 (referred to below as the “SCE Large Generator Interconnection Agreement”).¹⁷ Nevertheless, Nevada Hydro argues that it “should be treated no differently than if it were subject to a single LGIA.”¹⁸ Thus, according to Nevada Hydro, it should “not be expected to proceed with the development or make financial commitments with respect to” the interconnection to the SDG&E system until the ISO “completes processing” the interconnection to the SCE system, including the SCE Large Generator Interconnection Agreement.¹⁹

The Commission should reject these arguments by Nevada Hydro and should direct Nevada Hydro to abide by the respective terms of these two separate Large Generator Interconnection Agreements. As explained in the ISO’s March 21 filing in this proceeding,²⁰ no provision in the SDG&E LGIA, as accepted by the Commission, makes the development of the LEAPS project or Nevada Hydro’s financial commitments contingent upon the completion of the SCE Large Generator Interconnection Agreement. In this regard, Article 30.4 of the SDG&E LGIA contains an integration clause which reflects the fact that the

¹⁷ The ISO submitted the SCE Large Generator Interconnection Agreement in Docket No. ER12-1305-000 and SCE submitted the agreement in Docket No. ER12-1302-000. As the ISO explained in footnote 3 of its transmittal letter for the filing of that agreement, Section 11.3 of the LGIP requires Nevada Hydro to either execute the agreement or request the ISO and SCE to file the agreement in unexecuted form. On March 7, 2012 Nevada Hydro provided notice to the ISO requesting that the “CAISO file the agreement unexecuted with the Commission.” The ISO and SCE were then obligated to make the requested filing, within 10 business days of Nevada Hydro’s request. Therefore, the ISO’s filing of the SCE LGIA for LEAPS was not made because the ISO views the LEAPS project as actually viable, either as interconnected to SDG&E or SCE, but simply due to the fact that the ISO believed it had a tariff obligation pursuant to Section 11.3 of the LGIP to file the unexecuted LGIA with SCE.

¹⁸ Nevada Hydro at 12.

¹⁹ *Id.* at 12-13.

²⁰ March 21 filing at 6-7.

written SDG&E LGIA, including all appendices and schedules attached thereto, constitutes the entire agreement among the Parties with reference to the subject matter thereof, including but not limited to the milestone dates set forth in Appendix B to that LGIA. Article 30.4 of the separate SCE Large Generator Interconnection Agreement contains the same integration clause for that Large Generator Interconnection Agreement.

Moreover, in the proceeding regarding the SDG&E LGIA, the Commission noted the ISO's statement that "the connection with SoCal Edison [i.e., SCE] will likely involve similarly extensive Interconnection Facilities and Network Upgrades"²¹ but the Commission did not indicate that Nevada Hydro's obligations under the SDG&E LGIA were contingent upon Nevada Hydro's obligations under the SCE Large Generator Interconnection Agreement that was then being negotiated among Nevada Hydro, the ISO, and SCE. Indeed, the Commission accepted the currently effective version of the SDG&E LGIA without stating that its acceptance was subject to any future proceedings regarding the SCE Large Generator Interconnection Agreement.

Nowhere in the Commission orders addressing the SDG&E LGIA did the Commission provide that the effectiveness of the SDG&E LGIA depends on the subsequent completion and execution of the SCE Large Generator Interconnection Agreement.

The Commission should also reject Nevada Hydro's argument that the process of negotiating the LGIA between the ISO, SCE and Nevada Hydro

²¹ *California Independent System Operator Corp.*, 126 FERC ¶ 61,078, at P 3 fn.2 (2009).

somehow prejudiced its ability to develop the project pursuant to the timelines set forth in the SDG&E LGIA. It is unclear as to how these negotiations might have prevented Nevada Hydro from obtaining necessary licenses and permits from various agencies for matters that had nothing to do with interconnection (e.g. its hydroelectric license), and Nevada Hydro provides no evidence to substantiate this allegation. Given Nevada Hydro's lack of developmental progress detailed herein and in other regulatory proceedings, its attempt to blame the ISO, SCE and SDG&E for its own setbacks is patently ludicrous, and should be rejected by the Commission out of hand.

II. CONCLUSION

For the reasons explained above, the Commission should accept the notice of termination of the SDG&E LGIA filed in this proceeding on March 21, 2012, effective November 7, 2011 as proposed in the March 21 filing.

Respectfully submitted,

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Dated: April 26, 2012

Attachment A



PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
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April 3, 2012

FILED

04-03-12
12:10 PM

Agenda ID #11225
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 10-07-001

This is the proposed decision of Administrative Law Judge (ALJ) Minkin. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Minkin at ang@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON

Karen V. Clopton, Chief
Administrative Law Judge

KVC:avs

Attachment

Decision **PROPOSED DECISION OF ALJ MINKIN** (Mailed 4/3/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect Project.

Application 10-07-001
(Filed July 6, 2010)

**DECISION DISMISSING APPLICATION AND
DENYING PETITION TO MODIFY DECISION 11-07-036**

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**DECISION DISMISSING APPLICATION AND
DENYING PETITION TO MODIFY DECISION 11-07-036****Summary**

In this decision, we dismiss The Nevada Hydro Company's (Nevada Hydro) Application (A.) 10-07-001 for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kilovolt Interconnect Project. We take this action because, despite over 18 months of work, the application is not complete and does not conform to our requirements. We cannot continue to expend Commission or party resources on A.10-07-001. Although we dismiss this application without prejudice, we impose a series of conditions that must be met if we are to consider an application for this project (or similar projects) in the future. We also deny Nevada Hydro's Petition to Modify Decision (D.) 11-07-036, and require Nevada Hydro to comply with the performance/surety bond requirements specified by Ordering Paragraph 2 of D.11-07-036.

1. Background

In this application, The Nevada Hydro Company (Nevada Hydro) requests a Certificate of Public Convenience and Necessity (CPCN) for the Talega-Escondido/Valley-Serrano (TE/VS) 500 kilovolt Interconnect Project.

Nevada Hydro previously filed Application (A.) 07-10-005 and A.09-02-012 seeking the same authorization. These applications were dismissed without prejudice by Decision (D.) 09-04-006, because Nevada Hydro failed to prepare a complete Proponent's Environmental Assessment (PEA), as required by the California Environmental Quality Act (CEQA).

On July 6, 2010, the instant revised application was accepted for filing. On August 5, 2010, Commission staff determined that the PEA was complete for

purposes of CEQA. At the request of Commission Staff, Nevada Hydro amended its PEA on February 25, 2011. The Notice of Preparation was filed on March 14, 2011 at the Governor's Office of Planning and Research. By this action, Commission staff began an independent evaluation of the proposed project, including public scoping meetings to develop alternatives to the proposed project, and the potential environmental impacts of the proposed project and alternatives, as required by CEQA.

Timely protests were filed by the Division of Ratepayer Advocates (DRA), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), John Pecora (Pecora), Forest Residents Opposing New Transmission Lines (FRONTLINES), Fresian Focus, LLC, Linda Lou and Martin Ridenour, the Elsinore Valley Municipal Water District (EVMWD), and jointly by the Center for Biological Diversity, Friends of the Forest (Trabuco District) and the Santa Rosa Plateau, and Santa Ana Mountains Task Force of the Sierra Club. We refer to these intervenors as Joint Intervenors. Nevada Hydro filed its reply on August 16, 2010.

We issued D.11-07-036 on July 28, 2011 to address several threshold issues in Phase 1 of this proceeding. In D.11-07-036, we determined that, consistent with precedent, Nevada Hydro would become a public utility under Pub. Util. Code §§ 216 and 218, if a CPCN were to be issued in Phase 2 of this proceeding. In addition, because it was not certain that a CPCN would be issued for this project and because we must harmonize the various statutes that are incorporated in the Pub. Util. Code, we ordered Nevada Hydro to guarantee payment for those intervenors who meet the requirements of Pub. Util. Code §§ 1801 et seq. and for consultants hired by DRA, regardless of the outcome of this application. Therefore, we directed Nevada Hydro to post a surety bond or

performance bond in the amount of \$550,000 to cover the anticipated costs of eligible intervenors who make a substantial contribution to this proceeding, consistent with the requirements of the Pub. Util. Code. We also ordered Nevada Hydro to enter into a reimbursable contract arrangement that would cover the costs of DRA's expert consultants, approximately \$450,000, assuming Phase 2 went forward. We concluded that these are reasonable costs of doing business for an entity proposing to be certified as a public utility and proposing to build a project originally estimated to cost \$353 million (in 2007 dollars), and now anticipated to cost \$684 million.

Pursuant to Rule 16.6, on August 22, 2011, Nevada Hydro requested an extension of time from the Executive Director to comply with Ordering Paragraphs 2 and 3 of D.11-07-036. On August 25, 2011, the Executive Director granted a 60-day extension and required Nevada Hydro to provide the appropriate bond by October 28, 2011. On October 28, 2011, Nevada Hydro filed a motion for acceptance of a bond and cashiers check made payable to the California Public Utilities Commission. On November 9, 2011, as directed by the assigned Administrative Law Judge (ALJ), Nevada Hydro filed a petition for modification of D.11-07-036 to request that a letter of credit with cash backing be accepted in lieu of the bond. FRONTLINES and Joint Intervenors filed timely responses to the petition.

On November 10, 2011, the assigned ALJ convened a prehearing conference in Phase 2 of this proceeding. On December 1, 2011, the assigned ALJ issued a ruling that required the parties to file and serve comments on whether or not the Commission should dismiss A.10-07-001 and, if it is dismissed, whether or not the application should be dismissed with prejudice.

Nevada Hydro, DRA, SCE, SDG&E, EVMWD, Joint Intervenors, Pecora, and FRONTLINES filed and served timely comments on the ruling. No reply comments were accepted. On January 3, 2012, Nevada Hydro filed a motion requesting leave to file reply comments and January 4, 2012, SCE filed a motion to strike portions of Nevada Hydro's comments.

2. Should the Application be Dismissed?

2.1. The Parties' Positions

At the prehearing conference held on November 10, 2011, in response to the ALJ's questions regarding financial viability, Nevada Hydro explained that the witnesses associated with the Siemens Company are no longer available and requested a 90-day stay in the proceeding in order to prepare and submit new, replacement testimony. The testimony that must be replaced addresses costs and reliability and therefore feeds into the testimony of other Nevada Hydro witnesses who relied on the previously-submitted testimony. DRA raised additional concerns regarding the cost calculations in the previously-submitted testimony and requested that calculations of costs and benefits be done on a stand-alone basis, i.e., not associated with the Lake Elsinore Advanced Pumped Storage (LEAPS) Project. DRA also raised questions regarding Nevada Hydro's modeling assumptions.

SDG&E stated that the application is still deficient and that Nevada Hydro has not complied with Rules 2.3 and 3.1(g), in particular. SCE raised concerns regarding the collection of the Transmission Access Charge (TAC), whether the California Independent System Operator (CAISO) approval is required in order for Nevada Hydro to collect such a charge, and suggested that Nevada Hydro file a compliance filing to prove that it has the financial

wherewithal to go forward. EVWMD concurred with this suggestion and agreed with DRA's statements regarding costs and benefits.

The Center for Biological Diversity agreed that the application remains deficient and stated that the application should be dismissed with prejudice. The Santa Ana Mountains Task Force of the Sierra Club and the Friends of the Forest (Trabuco District) and the Santa Rosa Plateau pointed out that the issue of the Southern terminus remains an open question, and that this issue was a key reason the previous applications were dismissed. FRONTLINES suggested that a technical workshop be convened in the impacted area to discuss modeling and cost issues. Several parties concurred with this recommendation.

In its response to the ALJ's Ruling, Nevada Hydro argues that many, many years of work have gone into this project and the Commission should proceed with Phase 2. Nevada Hydro contends that it has embarked on "sensitive" commercial negotiations with prospective investors and has attached letters of intent from the St. Augustine Trust and First Reserve Corporation to provide development and construction financing for the proposed project. These commitments depend on regulatory approval of the project and retention of a bonded general contractor. Nevada Hydro contends that such letters of intent demonstrate that once a CPCN is issued, the project will have the necessary financing to become financially viable. Applicant further contends that issuance of a CPCN will lead to a reasonable expectation that the proposed project would become part of the CAISO grid and will lead to recovery of operating and investment costs.

In order to recover its costs, Nevada Hydro states that it intends to turn control over its facilities to the CAISO and to recover its costs through the TAC. Nevada Hydro states that it submitted a Participating Transmission Owner

application for the project to the CAISO in February 2007, as supplemented in April 2009. Nevada Hydro maintains that the project has been evaluated and approved by the CAISO when it was proposed as the Valley Rainbow Interconnect Project (sponsored by SDG&E) and further contends that the CAISO evaluated the project as part of the Southwest Transmission Expansion Plan and the South Regional Transmission Plan. Applicant also contends that the CAISO's actions in 2006 regarding the South Regional transmission Plan led to a conclusion that the project will ensure reliability and will achieve cost savings. However, Nevada Hydro acknowledges that the CAISO has not acted on these findings.

Nevada Hydro explains that the TE/VS project was originally planned as a tie-line with the LEAPS project, which was being considered at the Federal Energy Regulatory Commission (FERC). Nevada Hydro states that the FERC proceedings resulted in a Final Environmental Impact Statement that also considered the stand-alone project. Applicant also cites to FERC's approval of rate incentives and states that this approval "is the driver of inducing commercial funding sources to provide capital for the development and construction of innovative, non-utility transmission projects such as the TE/VS interconnect."¹ Nevada Hydro also maintains that the viability of the project is proven because in the environmental review of SDG&E's Sunrise Project, the Final Environmental Impact Report ranked the LEAPS Transmission-Only Alternative as one of the preferred alternatives.

¹ Nevada Hydro's December 16, 2011, Comments at 12.

While Nevada Hydro recognizes that Siemens is no longer financially involved in this project and that key aspects of its testimony must be replaced, Nevada Hydro contends that it has identified a substitute construction manager and is ready to proceed to correct cost and modeling assumptions that will result in lower costs to ratepayers. Thus, Nevada Hydro states that it is premature to dismiss the application; that need and economics must be determined based on the development of a complete record, and that dismissal of the application, particularly dismissal with prejudice would be “catastrophic” to the owners and investors who have invested \$25 million in the endeavor thus far.² In addition, Nevada Hydro contends that such actions would have a chilling effect on the independently developed projects of all kinds in California.

Nearly all other parties assert that the application should be dismissed. FRONTLINES states that this application should go forward “to ensure the ongoing TEVS CPSN application is the last TEVS CPCN application from Nevada Hydro that the Commission ever considers.”³ FRONTLINES therefore suggests that the Commission convene a workshop to establish appropriate modeling assumptions and cost/benefit parameters and that Nevada Hydro prepare new expert witness testimony based on the workshop findings. Alternatively, FRONTLINES agrees that the application could be dismissed with prejudice but only if the Commission precluded Nevada Hydro from submitting any future application for any transmission line project which interconnects the Talega-Escondido line with the Valley-Serrano line.

² Id. at 22.

³ FRONTLINES’ December 16, 2011, Comments at 2.

DRA supports dismissal of the application because Nevada Hydro has failed to submit a complete application despite ample time and opportunity to do so. DRA explains that Nevada Hydro's failure to submit a complete application has lead to wasted resources for parties and for the Commission. DRA suggests that the application be dismissed without prejudice but states that the Commission should require a complete and thorough application including testimony sponsored by witnesses who will be available for hearings and cross-examination. DRA correctly observes that Nevada Hydro is obligated to pay all of DRA's costs incurred with hiring an expert witness in this proceeding, pursuant to D.11-07-036.

SDG&E, SCE, EVWMD, and Pecora all agree that the application should be dismissed, but defer to the Commission to determine whether this action should be with or without prejudice. SCE and SDG&E maintain that should Nevada Hydro be allowed to refile an application, that application must be complete in all ways, must comply with the Rules of Practice and Procedure, must demonstrate that a viable Southern terminus exists for the project, and must show that Nevada Hydro is actively seeking approval from the CAISO for the required interconnection and ability to implement a TAC. EVWMD contends that Nevada Hydro has not honored certain obligations to pay for all LEAPS Project development costs, including all necessary permits and entitlements and represents that this failure is evidence of Nevada Hydro's inability to obtain necessary financing for the TE/VS project. Joint Intervenors argue that the application should be dismissed with prejudice because the application fails to comply with Commission rules and fails to provide the needed experts and witnesses to ensure that the parties can fully assess the project.

2.2. Discussion

Without assessing the contentions and representations regarding Nevada Hydro's failure to pay certain obligations, we conclude that this application is procedurally deficient and should be dismissed. At this late date, we decline to stay this proceeding while Nevada Hydro seeks expert witnesses to prepare testimony that is critical to the consideration of whether this project is viable, feasible, economic, and whether there is a need for the project. The Commission cannot afford to squander its resources on applications that, despite over 18 months of work, remain vague and speculative as to financing plan and indeed the project description itself. Nevada Hydro has had ample opportunity in this application and in previous applications to develop its project description and financing plan appropriately, and to confirm that it can present its case-in-chief that includes with specificity how it will interconnect with both SDG&E and SCE's systems and that the CAISO will accept control as the grid operator. This has not occurred. In sum, despite months of work and resources expended by this Commission, the parties, and the project proponent itself, Nevada Hydro has not yet provided the Commission with a full and complete application that would allow us to assess the economics and need of the proposed project. Because its financial wherewithal to proceed with the project is not readily apparent, we dismiss this application.

Intervenors that have been found eligible for intervenor compensation may file and serve requests for intervenor compensation, which the Commission will consider in due course. Consistent with the requirements of D.11-07-036, we direct Nevada Hydro to honor authorized intervenor compensation requests and to ensure that the reimbursable contracts with the Commission's Energy Division

consultants for environmental review of the project and with DRA for expert consultants are paid in full.

However, we also take this opportunity to confirm that the Commission supports the concept of independent transmission owners and operators. On the one hand, we acknowledge that Nevada Hydro has had multiple opportunities to prepare a complete and sufficient application. On the other hand, there may be savings for ratepayers if competent merchant transmission owners receive a CPCN. In this particular case, we set a series of conditions that Nevada Hydro, its principals, or any other proponent of this project (or similar projects) must meet before an application will be accepted for filing at the Commission. We concur with the Joint Intervenors' recommendations that any subsequent application must meet the following requirements:

1. To be considered complete, any application must comply fully with the requirements of the Pub. Util. Code §§ 1001 *et seq.*, General Order 131, the Rules of Practice and Procedure, must fully demonstrate the proposed project's need, and must comply with the detailed requirements to provide a cost control plan, implementation plan, and project management plan;
2. Any subsequent application must ensure that the financial viability of the project is clear and that any financial partner's participation is transparent, as well as the financial viability of the project and proponent's ability to support the project;
3. Any subsequent application must include complete testimony from expert witnesses. Because the application must be complete, parties must be able to rely on the proffered experts and their testimony;
4. Any subsequent application must provide an accurate and stable project description and location and the

Energy Division must not accept the PEA as complete without such a description; and

5. Any subsequent application must explain how the CAISO is currently considering the project and must include a full discussion of how revenue requirements will be calculated and recovered through the Transmission Access Charge, as well as the impact on California ratepayers.

To the extent that the project proponents consider filing a future application, we agree with Joint Intervenors and FRONTLINES that a technical workshop should be convened before any application is filed. The technical workshop should be held in the location of the proposed project. To the extent that a future project of this type is considered, Nevada Hydro (or any subsequent project proponent) is responsible for convening and properly noticing such a workshop, which will be held at Nevada Hydro's expense. Nevada Hydro must also maintain a list of workshop attendees. The technical workshop should focus, at a minimum, on the proposed project description as a stand-alone project, the proposed route, costs, benefits, and modeling assumptions. The workshops must be widely-noticed and held well before any application is submitted to the Commission. Nevada Hydro must supply a thorough description of the workshop and must explicitly demonstrate in any subsequent application how it has considered and incorporated the input from such a workshop. Nevada Hydro must serve any subsequent application on the workshop attendees, as well as on the service list to this proceeding. In addition, Energy Division Staff must review a preliminary application and must agree that the application is complete, pursuant to the requirements of this decision, before applicant files formally. We also require Nevada Hydro to pay all approved

intervenor compensation claims and all reimbursable contracts before either Nevada Hydro or its principals file a new application.

Because we are dismissing this application, all pending motions are dismissed as moot.

3. Should the Petition to Modify D.11-07-036 be Granted?

In D.11-07-036, among other things, we determined that the Nevada Hydro is subject to the mandates of Pub. Util. Code §§ 1801 *et seq.*, whether or not the proposed transmission line is not certificated by this Commission. We reasoned that: “A transmission line proceeding often has many interested parties and intervenors who ‘have a stake’ in the outcome of this matter.

It would have a chilling effect on effective participation, if there is not some guarantee that funding will be available to pay those eligible intervenors who are determined to have made a substantial contribution to this proceeding, whether or not a CPCN is issued to Nevada Hydro. In addition, this approach treats all applicants for a transmission CPCN similarly; to hold otherwise would be to impose more stringent requirements on utility CPCN applicants than on non-utility applicants without any justification for this differential treatment.”⁴

We concluded that the costs of providing a performance or surety bond and entering into a progressive invoicing and reimbursable contract arrangement with DRA are reasonable costs of doing business for an entity proposing to be certified as a public utility and proposing to build a project now estimated to cost

⁴ D.11-07-036, Conclusion of Law 8 at 18.

\$684 million⁵ and therefore ordered Nevada Hydro to post a surety or performance bond with a face value of \$550,000, or approximately 1.5 times the budgets estimated by the three eligible intervenor groups in this proceeding. The bond requirement is to remain in effect until the proceeding is completed and Nevada Hydro has compensated all intervenors that the Commission determines have made a substantial contribution to the proceeding. While there is a fund within the Commission's budget to pay intervenors in broad policy rulemakings where there are either numerous or unnamed respondents, this proceeding does not meet the requirements for paying intervenors from this fund.⁶

Nevada Hydro was ordered to post the bond within 30 days of the effective date of D.11-07-036. Ordering Paragraph 5 stated that the application would be dismissed if Nevada Hydro did not comply with these requirements. Pursuant to Rule 16.6, On August 22, 2011, Nevada Hydro requested an extension of time from the Executive Director to comply with these requirements. On August 25, 2011, the Executive Director granted a 60-day extension and required Nevada Hydro to provide the appropriate bond by October 28, 2011. On October 28, 2011, Nevada Hydro filed a motion for acceptance of a bond and cashiers check made payable to the California Public

⁵ November 30, 2010 Testimony of Nevada Hydro Witness Drzemiecki, Exhibit 2 indicating Gross Plant Beginning of Year. Gross plant includes costs associated with construction of physical plant, acquisition of rights-of-ways and easements, and financing costs during the construction period.

⁶ D.00-01-020 established a fund within the Commission's budget for intervenor awards in quasi-legislative proceedings in which there are either numerous respondents or respondents are not named.

Utilities Commission. In its motion, Nevada Hydro acknowledged its confusion regarding the intervenor compensation program and who was responsible for paying the intervenors. On November 9, 2011, as directed by the assigned ALJ, Nevada Hydro filed a petition for modification of D.11-07-036 to request that a letter of credit with cash backing be accepted in lieu of the bond. FRONTLINES and Joint Intervenors filed timely responses to the petition.

Nevada Hydro states that it understands that it is subject to the laws of the State and the Rules of Practice and Procedure, and further acknowledges its responsibility to pay intervenor compensation ultimately awarded by the Commission. Nevada Hydro contends that because the Commission did not specify the "form, language, beneficiary, conditions precedent to performance, creditworthiness of the surety, or other legal elements" of the bond, it believes the alternative proposed approach should be acceptable.⁷ Nevada Hydro further understands that a letter of credit is not a form of guarantee under California law, but explains that it has set aside \$550,000 in cash that is on deposit with Wells Fargo to compensate intervenors. Nevada Hydro further contends that this arrangement may be more conducive to intervenor funding because the funds will be readily available and will not require the extensive paper trail that a surety or performance bond would require.

Joint Intervenors urge the Commission to reject the Petition for Modification because the intervenor compensation program requires a well-defined and well-functioning guarantee of payment, particularly if (as is the case here) the application is denied or dismissed, the CPCN is not issued, and

⁷ Petition to Modify D.11-07-036 at 2.

Nevada Hydro does not become a public utility. The parties argue that a letter of credit and the revocable funds on deposit do not provide the necessary guarantee that funds will be in place to compensate intervenors. In addition, these intervenors explain that the letter of credit contain both cancellation and expiration clauses that are inapposite to the requirements of Ordering Paragraph 2 of D.11-07-036. FRONTLINES agrees with the Joint Intervenors, stating that Letter of Credit as structured is inadequate to guarantee payment and secure intervenor compensation funds.

We agree with the intervenors: as structured, the Letter of Credit proffered by Nevada Hydro and the funds placed on deposit by Rex Waite are not a sufficient substitute for the guarantees intended to be in place by a performance or surety bond. As FRONTLINES points out, a bond cannot be arbitrarily or unilaterally cancelled by Nevada Hydro or Mr. Waite, is secured by a reliable funding source, and must clearly designate that payments must be made to eligible intervenors if Nevada Hydro defaults on its intervenor compensation obligations. Therefore, we deny Nevada Hydro's Petition to Modify D.11-07-036 and require Nevada Hydro to post the requisite bond within 15 days of the effective date of this decision. No time extensions will be granted. We urge Nevada Hydro to work with appropriate outside counsel to ensure that the bond is issued expeditiously. It is also reasonable to impose a requirement that all approved intervenor compensation requests be fully paid prior allowing Nevada Hydro to file any subsequent application.

4. Categorization and Need for Hearings

In Resolution ALJ 176-3257 dated July 8, 2010, the Commission preliminary categorized this application as Ratesetting, and preliminary determined that hearings were necessary. Because we dismiss the application

based on procedural deficiencies, no hearings are required. The hearings determination is changed to state that no evidentiary hearings are necessary.

5. Comments on Proposed Decision

The proposed decision of ALJ Minkin in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code, and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

6. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Angela K. Minkin is the assigned ALJ in this proceeding.

Findings of Fact

1. Nevada Hydro previously filed A.07-10-005 and A.09-02-012 seeking a CPCN for the TE/VS 500 kV Interconnect Project.
2. By D.09-04-006, we dismissed A.07-10-005 and A.09-02-012 without prejudice, because Nevada Hydro failed to prepare a complete PEA, as required by CEQA.
3. Without assessing the contentions and representations regarding Nevada Hydro's failure to pay certain obligations, we conclude that A.10-07-001 is procedurally deficient and should be dismissed.
4. The Commission cannot afford to squander its resources on applications that, despite more than 18 months of work, remain vague and speculative as to financing and indeed the project itself.
5. It makes little sense to stay this proceeding while Nevada Hydro seeks expert witnesses to prepare testimony that is critical to the consideration of whether this project is viable, feasible, economic, and whether there is a need for the project.

6. Nevada Hydro has had ample opportunity in A.10-07-001 and in previous applications to develop its project description and financing plan appropriately and to confirm that it can present its case-in-chief, which includes with specificity how it will interconnect with both SDG&E's and SCE's systems, and that the CAISO will accept control as the grid operator; however, none of these actions have occurred.

7. We support the concept of independent transmission-owners and operators, which may provide savings for ratepayers if competent merchant transmission owners receive a CPCN.

8. It is reasonable to impose a series of conditions that Nevada Hydro, its principals, or subsequent project proponents must meet before an application for this or any similar project will be accepted for formal filing by the Commission.

9. The Letter of Credit and Cash Deposit approach proposed by Nevada Hydro in its Petition for Modification filed on November 9, 2011 does not provide the requisite guarantee of intervenor compensation funding ordered in D.11-07-036.

Conclusions of Law

1. Application 10-07-001 should be dismissed without prejudice.
2. Nevada Hydro, its principals, or subsequent project proponents should be required to comply with a series of conditions in order to have any subsequent application accepted for filing by this Commission:
 - a. To be considered complete, any application must comply fully with the requirements of the Pub. Util. Code §§ 1001 *et seq.*, General Order 131, the Rules of Practice and Procedure, must fully demonstrate the proposed project's need, and must comply with the detailed requirements to provide a cost control plan, implementation plan, and project management plan;

- b. Any subsequent application must ensure that the financial viability of the project is clear and that any financial partner's participation is transparent, as well as the financial viability of the project and proponent's ability to support the project;
- c. Any subsequent application must include complete testimony from expert witnesses. Because the application must be complete, parties must be able to rely on the proffered experts and their testimony;
- d. Any subsequent application must provide an accurate and stable project description and location and the Energy Division must not accept the PEA as complete without such a description.
- e. Any subsequent application must explain how the CAISO is currently considering the project and include a full discussion of how revenue requirements will be calculated and recovered through the Transmission Access Charge, as well as the impact on California ratepayers.
- f. To the extent that the project proponents (or subsequent proponents) consider filing a future application for a similar project, the project proponents shall convene a technical workshop before any application is filed at this Commission. The technical workshop must be held in the location of the proposed project.
- g. To the extent that a future project of this type is considered, Nevada Hydro (or any subsequent project proponent) is responsible for convening and properly noticing such a workshop, which will be held at Nevada Hydro's expense. The technical workshop must focus, at a minimum, on the proposed project description, route, costs, benefits, and modeling assumptions. The workshops must be widely-noticed and held well before any application is submitted to the Commission. Nevada Hydro must maintain a list of workshop attendees.
- h. Nevada Hydro (or subsequent project proponent) must supply a thorough description of the workshop and must explicitly demonstrate in any subsequent application how

it has considered and incorporated the input from such a workshop. Nevada Hydro must serve any subsequent application on workshop attendees, among others, as well as on the service list to this proceeding.

- i. Prior to any subsequent application being formally filed, Energy Division Staff must review any preliminary application and agree that the application is complete, pursuant to the requirements of this decision.
- j. No subsequent application may be filed until all approved intervenor compensation claims and reimbursable contracts are paid in full by Nevada Hydro.

3. The Petition to Modify D.11-07-036, filed by Nevada Hydro on November 9, 2011, should be denied.

4. Nevada Hydro should be required to comply with Ordering Paragraph 2 of D.11-07-036 and should be required to post the required performance or surety bond within 15 days of the effective date of this decision.

5. As we determined in D.11-07-036, it is reasonable to require Nevada Hydro to provide a performance or surety bond in the amount of \$550,000 and to require the bond to remain in effect until Nevada Hydro has fully compensated all intervenors that the Commission determines have made a substantial contribution to this matter.

6. Because the application is dismissed, all pending motion should be dismissed as moot.

7. This proceeding should be closed, although Nevada Hydro should be ordered to post the requisite bond, to honor all intervenor compensation claims awarded by the Commission, and to ensure that the reimbursable contracts with the Commission's Energy Division consultants for environmental review of the project and with DRA for expert consultants are paid in full.

8. Hearings are not necessary.

9. This decision should be effective today.

O R D E R

IT IS ORDERED that:

1. Application 10-07-001 is dismissed without prejudice. To the extent that The Nevada Hydro Company (Nevada Hydro), its principals, or subsequent project proponent chooses to pursue the proposed Talega-Escondido/Valley-Serrano Transmission Line Interconnect or other similar project, the project proponent must comply with the following explicit requirements:
 - a. To be considered complete, any subsequent application must comply fully with the requirements of the Pub. Util. Code §§ 1001 *et seq.*, General Order 131, and the Rules of Practice and Procedure, must fully demonstrate the proposed project's need, and must comply with the detailed requirements to provide a cost control plan, implementation plan, and project management plan;
 - b. Any subsequent application must ensure that the financial viability of the project is clear and that any financial partner's participation is transparent, as well as the financial viability of the project and proponent's ability to support the project;
 - c. Any subsequent application must include complete testimony from expert witnesses. Because the application must be complete, parties must be able to rely on the proffered experts and their testimony;
 - d. Any subsequent application must provide an accurate and stable project description and location and the Energy Division must not accept the Proponent's Environmental Assessment as complete without such a description.
 - e. Any subsequent application must include a discussion of the California Independent System Operator's current consideration of the project and include a full discussion of how revenue requirements will be calculated and

- recovered through the Transmission Access Charge, as well as the impact on California ratepayers.
- f. To the extent that the project proponents (or subsequent proponents) consider filing a future application for a similar project, the project proponents shall convene a technical workshop, before any application is filed at this Commission. The technical workshop must be held in the location of the proposed project.
 - g. To the extent that a future project of this type is considered, Nevada Hydro (or any subsequent project proponent) is responsible for convening and properly noticing such a workshop, which will be held at Nevada Hydro's expense. The technical workshop must focus, at a minimum, on the proposed project description as a stand-alone project, the proposed route, costs, benefits, and modeling assumptions,. The workshop must be widely-noticed and held well before any subsequent application is filed at the Commission. Project proponents must maintain a list of workshop attendees.
 - h. Nevada Hydro (or subsequent project proponent) must supply a thorough description of the workshop and must explicitly demonstrate in any subsequent application how it has considered and incorporated the input from such a workshop. Project proponents must serve any subsequent application on workshop attendees, among others, as well as on the service list to this proceeding.
 - i. Energy Division Staff must review any preliminary application and must agree that the application is complete, pursuant to the requirements of this decision. Nevada Hydro (or subsequent project proponents) must include a letter from the Director of the Energy Division that states the application is complete as an attachment to any subsequent application tendered for formal filing.
 - j. No subsequent application may be filed until all approved intervenor compensation claims and reimbursable contracts with the Energy Division and the Division of Ratepayer Advocates are paid in full by Nevada Hydro.

Nevada Hydro shall include a declaration that all claims and contracts have been paid.

2. The Nevada Hydro Company's Petition to Modify Decision (D.) 11-07-036 is denied. Consistent with D.11-07-036 and Ordering Paragraph 2, The Nevada Hydro Company shall provide a surety or performance bond in the amount of \$550,000 that shall remain in effect until it has fully compensated all eligible intervenors determined to have made a substantial contribution to this proceeding.

3. No later than 15 days after the effective date of this proceeding, The Nevada Hydro Company shall file and serve proof of the bond in this proceeding.

4. This proceeding is closed. Consistent with the requirements of Decision 11-07-036, Nevada Hydro must post the bond as directed in Ordering Paragraphs 2 and 3, must honor authorized intervenor compensation requests and must ensure that the reimbursable contracts with the Commission's Energy Division consultants for environmental review of the project and with the Division of Ratepayer Advocates for expert consultants are paid in full.

5. The hearing determination is changed to no hearings necessary.

6. Application 10-07-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 26^h day of April, 2012.

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas