

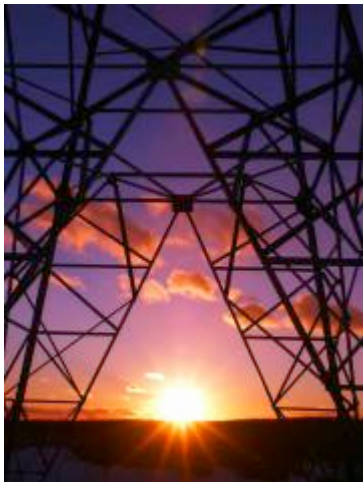


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2 LEGAL DECISIONS ON POWERLINK ISSUED, CLOUDING FUTURE OF \$1.9 BILLION PROJECT

By Miriam Raftery



July 15, 2009 (San Diego's East County) – A pair of state and federal legal decisions further muddy the future of Sunrise Powerlink, the 150-mile-long high voltage line proposed by San Diego Gas & Electric (SDG&E), a Sempra Energy company. One cleared a hurdle for the utility company at the state level while also opening the door to future legal challenges, the second imposes a significant barrier into SDG&E's plans to build Powerlink on key federal lands.

"The power line should never have been approved in the first place and now is much farther from getting all its permits or beginning construction," said Donna Tisdale founder of BAD. "Each year of delay means less risk of wildfire, less upset to property owners and communities, and less likelihood that the line will be extended north through even more private

property to Los Angeles."

On July 9, the California Public Utilities Commission (CPUC) denied a request from environmental groups for a rehearing of the CPUC's 2008 decision that approved the Powerlink project. The decision, long expected by project opponents, opens the way for challenges to be filed in state court. Michael Shames, director of the Utility Consumers Action Network (UCAN) has vowed to appeal the CPUC decision to the California Supreme Court and the Court of Appeals. "What this decision does is allow us to get this case out of the hands of the politicians and the political process, and we now get to go to the courts," said Shames, according to a Channel 10 News report.

On July 14, a panel of federal administrative law judges ruled that local opponents have standing to challenge the project and dismissed SDG&E's motion to dismiss an appeal as untimely.

“This ruling is a major blow to a deeply flawed project,” said Stephan Volker, an attorney representing groups that sought standing to challenge Powerlink at the federal level. “Most of the construction delays have been the direct result of agencies finding significant fault with this unnecessary powerline.”

Three organizations had filed appeals against a U.S. Bureau of Land Management (BLM) decision in January that granted approval for Powerlink to be built on BLM land in East County. The panel ruled that Back County Against Dumps (BAD) has standing to challenging the project, but denied standing for two other groups (East County Community Action Coalition and the Protect Our Communities Foundation) because those organizations were created too late to qualify. The panel rejected, however, a request to stay any resource-disturbing activity (such as road building) but ruled that SDG&E must comply with a new timetable delaying construction until at least June 2010. (View the ruling at <http://protectourcommunities.org>.)

The CPUC, though refusing to overturn its decision, did amend its original findings to add findings that the approved route would have “significant and unmitigable” fire risks including increased probability of wildfire from overhead transmission lines and construction/maintenance activities, and that the lines “would reduce the effectiveness of firefighting.” But the CPUC none-the-less stood by its decision.

Commissioner Dian M. Gruenich issued a blistering dissent, noting that the original Sunrise decision was based on assumptions that Powerlink would carry renewable resources from Imperial Valley to meet a 33% renewable portfolio standard. She pointed to arguments that Powerlink could easily carry existing fossil-fuels from out of state and Mexico. Gruenich, who voted against the project initially, asked SDG&E during that approval process to guarantee delivery of renewable resources through Powerlink, but the utility declined. In her appeal, Gruenich wrote, “Thus, the risk that Sunrise will increase, rather than decrease, GHG (greenhouse gas) emissions is real and significant” and chided the CPUC for refusing to impose feasible GHG mitigation measures and for implying that it is now irrelevant whether or not Powerlink carries renewable or fossil-fired power. “The Commission’s conclusion is clearly at odds with the rest of the Sunrise Decision, which finds that the sole economic justification for approving Sunrise is that Sunrise will carry extensive amounts of Imperial Valley renewable power,” she concluded.

SDG&E has spent more than \$156 million on the line already, the San Diego Union-Tribune reports, and says it is on track for completion by 2012. “Workers are surveying the landscape, testing soil, planning for construction and will begin pouring concrete in a few areas this fall,” according to the Union-Tribune report, which added, “Company officials have said that building such a big line is so complicated that they can’t stop whenever an environmental, consumer or community group raises a legal hurdle.”

In addition to the state-level and federal BLM challenges, the project also faces opposition from community groups seeking to halt construction through Cleveland National Forest, the last remaining segment of the project not yet approved. As ECM recently reported, opponents of Powerlink have sent a demand letter to the Forest director, William Metz, strongly suggesting legal action if he approves the project.

A decision against SDG&E at any of those three levels could potentially kill the project. But in the meantime, construction activities are commencing in some areas, much to the

dismay of thousands of area residents who believe the project raises fire danger and health risks, impedes scenic views, may not carry renewable energy resources, and is not necessary to meet the region's future power needs. SDG&E contends San Diego needs a second transmission line for security purposes and to assure that future energy needs can be met.

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