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New developments give Sunrise opponents hope

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Even as San Diego Gas & Electric Co. orders huge latticework towers and a big helicopter to lift them into place for its controversial Sunrise Powerlink electric line, opponents are gearing up for a bigger fight.

After years of regulatory hearings and thousands of pages of environmental reports, foes of the 1,000-megawatt power line say they are getting closer to cutting through political maneuvering.

SDG&E and other backers of Sunrise say the project is needed to promote development of power from renewable sources such as the sun, wind and underground heat, to ensure a reliable supply of power and to lower prices.

The opponents say all those things are possible without Sunrise, and the \$1.9 billion line – which promises to be a big moneymaker for SDG&E – may actually make those goals harder to achieve.

In legal challenges, they say that federal and state officials ignored key evidence and were influenced by politics rather than sound policy.

Two moves this week mean the original decisions approving Sunrise will get a second look.

Tuesday, a board in Washington, D.C., ruled that an appeal of a federal agency's approval of line construction could go forward – and said it would hold SDG&E to its word that it won't begin major construction for nearly a year.

Monday, the state Public Utilities Commission said it wouldn't reconsider its December decision approving the line. A dissenting commissioner said the decision has “fundamental and fatal” problems. The decision means Sunrise foes can appeal to state courts.

Also, opponents last week sent the head of the Cleveland National Forest a letter that reads like a legal brief – a not-too-subtle hint that he will be challenged if he rules in favor of SDG&E.

They said the environmental review treated the forest “as an afterthought” because most of its attention

focused on an earlier SDG&E proposal to run the line across the Anza-Borrego Desert State Park.

Forest Supervisor William Metz has said he might wait to see what happens with the other appeals before deciding. He was unavailable for comment yesterday.

A win for the adversaries in any of the three areas – the courts, the federal appeals board or the forest – would kill the project, said one of the lawyers battling SDG&E.

“Then, we'd have a power line to nowhere,” said Stephan Volker, who represents a group of East County residents fighting the approval of Sunrise by the Bureau of Land Management.

The line and its 150-foot-tall towers would snake through the deserts and mountains of East County on its way from El Centro to San Diego.

SDG&E said yesterday it has spent more than \$156 million on the line and 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, it said.

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.

But those challenges are moving forward.

In a ruling late Tuesday, the Interior Board of Land Appeals in Washington, D.C., said rural activist Donna Tisdale, and a group she heads, Backcountry Against Dumps, could continue the fight.

After dealing with preliminary issues such as filing deadlines and deciding that two other groups couldn't appeal the BLM approval of the line, the board will now weigh whether the challenge has merit.

Although the board rejected Tisdale's request that it prevent construction of the line until it makes a final decision, it said that wasn't necessary because SDG&E said it wouldn't start construction until next June.

SDG&E prevailed – as expected – when the PUC decided not to revisit its December decision approving Sunrise, as sought by the Center for Biological Diversity, the Sierra Club and UCAN, the Utility Consumers' Action Network.

But UCAN head Michael Shames said that was a win for opponents because it means the decision can now be appealed to state courts.

“Once we get this case out of the hands of the Public Utilities Commission, we get to depoliticize it,” he said.

That could be a difficult fight, environmental law expert David Getches, dean of the University of Colorado Law School, said in an earlier interview.

“There's quite a bit of deference to administrative agencies,” he said. “It's not impossible to win that case, but it's an uphill fight.”

Shames said courts are more familiar with appeals by utilities, which will help his case.

“They don't get that many appeals from public interest groups, so they tend to pay a little more attention to them,” he said.

As for the nitty-gritty of the appeal, Shames pointed to the sharp dissent by Commissioner Dian

Grueneich, who opposed the project unless Sunrise carried primarily “green” power.

She wrote that the line will make it easier for gas-fired plants in Mexico to sell power to California. “The risk that Sunrise will increase, rather than decrease, (greenhouse gas) emissions is real and significant,” she wrote.

In the PUC challenge, the opponents said the evidence didn't support the commission's conclusion that the line is needed.

The same four commissioners who voted for the line in December backed it again in a 40-page opinion approved last Thursday and released Monday.

Led by PUC President Michael Peevey, the majority said that just because there is evidence contrary to their findings, that doesn't mean they erred, legally.

A key point was whether construction of the line would reduce greenhouse gas emissions – implied in its goal to help the state reach a goal of getting 33 percent of its power from renewable sources, those other than fossil fuels.

The PUC majority conceded Peevey's original decision could have been clearer.

“Despite statements in the decision to the contrary, we do not in fact conclude that the Sunrise project will result in lower (greenhouse gas) emissions,” they said.

Rather, the line will help the state reach the 33 percent goal more quickly and cheaply, they said.

In her dissent, Grueneich said that if Sunrise won't help to reduce greenhouse gases, it cannot be justified because “the sole economic justification for approving Sunrise is that Sunrise will carry extensive amounts of Imperial Valley renewable power.”


Without a requirement that the line carry such power, “Sunrise makes no sense,” she wrote. “It makes no economic sense; it makes no environmental sense.”

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In the Union-Tribune on Page C1

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