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JAN 16 2008

January 7, 2008

Chairman Mike Gleason
Commissioner Jeff Hatch-Miller
Commissioner Kristin K. Mayes
Commissioner William Mundell
Commissioner Gary Pierce
Arizona Corporation Commission
Attn: Docket Office
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED
JAN 17 2008
DOCKETED BY

Re: SCE Devers-Palo Verde Transmission Project,
Docket No. L-00000A-06-0295-00130

Dear Chairman Gleason and Commissioners:

This office represents the Sierra Club, Grand Canyon Chapter, in connection with the above-referenced matter. The Sierra Club intervened in the proceedings conducted by the power plant and Transmission Line Citing Committee, presented evidence, cross examined witnesses and subsequently appeared before the Commission after it filed a request for review of the Committee's decision. The Sierra Club has also intervened in the lawsuit filed by Southern California Edison challenging the Commission's decision.

This letter is in response to the letter sent to you by Michael R. Peevey, President of the California Public Utilities Commission, regarding the above-referenced matter. The California Public Utilities Commission did not intervene in any of the proceedings related to the Devers-Palo Verde Transmission Project but nevertheless has submitted through Mr. Peevey numerous factual matters not only in the December 20th letter but also in the December 13th letter attached thereto. Mr. Peevey concludes by asking that the Arizona Corporation Commission take official

notice of his letter pursuant to AACR14-3-109(T)(4)-(5) "so that it may be included in the ACC record for the Devers-Palo Verde Project." Mr. Peevey reiterates the CPUC's "strong support" for the project and asks that you reconsider your position on this matter.

The Sierra Club strongly objects to the CPUC's request that the Commission take official notice of its letter. It is not appropriate to do so for any number of reasons. First, as previously noted, the CPUC has never intervened in these proceedings and never became a party thereto. As a result, it is not in a position to ask that evidence be included in the record. Second, the record in this proceeding has long been closed. The Commission certified the record to the Maricopa County Superior Court on October 26, 2007 in connection with the lawsuit filed by Edison challenging the Commission's decision. Therefore, there is no pending proceeding and no record in which to include the CPUC's letters.

Finally, even if the CPUC was a party and there was a pending proceeding, it would inappropriate for the Commission to take official notice of the CPUC's letters. Mr. Peevey references AACR14-3-109(T) but that rule does not even apply in this situation. The rule references a rule of evidence applicable at hearings conducted by the Commission and specifically provides that official documents can be officially noticed only when properly introduced into the record and when an opportunity is given to all of the parties "at the hearing" to examine the evidence and present rebuttal evidence. Without that opportunity, the parties to this proceeding like the Sierra Club would be denied due process.

This issue has significance because if the Commission takes official notice of the CPUC letters, there could be an attempt to use the information contained in those letters as part of the pending litigation filed by Edison against the Commission. For all these reasons, the Sierra Club requests that the Commission deny the CPUC's request to take official notice of its letters and also reject any suggestion that the Commission should reconsider its decision in this case.

Sincerely,

Timothy M. Hogan
Executive Director

cc: All Parties of Record