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ADMITTED TO PRACTICE IN:
ARIZONA, COLORADO, MONTANA,
NEVADA, TEXAS, WYOMING,
DISTRICT OF COLUMBIA

OF COUNSEL TO
MUNGER CHADWICK, P.L.C.

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DOCKET CONTROL

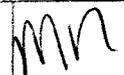
February 7, 2008

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED

FEB - 8 2008

Re: Sempra Energy Solutions LLC
Docket No. E-03964A-06-0168

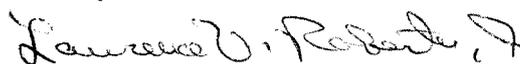
DOCKETED BY 

To Whom It May Concern:

Enclosed for filing in the above-referenced docket on behalf of Sempra Energy Solutions LLC are the original and thirteen (13) copies of Applicant's Response to the Joinder to Motion To Dismiss.

Please let me know if you have any questions. Thank you for your assistance.

Sincerely,


Lawrence V. Robertson, Jr.

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FEB 7 2008

ARIZONA CORP. COMM
400 W CONGRESS STE 218 TUCSON AZ 85701

1:00 p.m. 9/8.

BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

FEB 7 2008

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

ARIZONA CORP. COMM
400 W CONGRESS STE 218 TUCSON AZ 85701

1:00p.m. J.

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. E-03964A-06-0168
SEMPRA ENERGY SOLUTIONS FOR)
APPROVAL OF A CERTIFICATE OF) APPLICANT'S RESPONSE TO THE
CONVENIENCE AND NECESSITY FOR) JOINDER IN MOTION TO DISMISS
COMPETITIVE RETAIL ELECTRIC SERVICES)

Pursuant to the Eighteenth Ordering Paragraph of the December 4, 2007 Procedural Order issued in the above-captioned and above-docketed proceeding, Sempra Energy Solutions LLC ("Applicant") submits its Response to the Joinder In Motion To Dismiss ("Joinder") filed by the Arizona Investment Council ("AIC") on February 6, 2008.

**I.
THE JOINDER IS COMPRISED
OF TWO (2) MOTIONS**

The Joinder consists, in effect, of two (2) motions. The first motion is a joinder in and reiteration by way of adoption of the Motion To Dismiss ("Motion") filed by New West Energy Corporation ("NWEC") on February 1, 2008, in the above-captioned and above-docketed proceeding. The second motion is a separate motion, in effect, by AIC that NWEC's Motion be set for oral argument on February 19, 2008, which is the date upon which the evidentiary hearing in this proceeding is currently scheduled to commence. Applicant addresses each of these motions below.

**II.
THE JOINDER REITERATES AND ADOPTS, AND IS
THUS PREDICATED UPON, A
DEFECTIVE ORIGINAL MOTION TO DISMISS**

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1 With reference to the first motion in the Joinder, Applicant incorporates herein by this
2 reference the substance of Applicant's Response To Motion to Dismiss ("Response"), as filed by
3 Applicant in this proceeding on February 6, 2008. Aside from a brief reference to prepared
4 testimony recently filed in this proceeding by Commission Staff Witness Geoffrey Crandall, the
5 Joinder essentially adopts and reiterates the Motion previously filed by NWEAC. Hence, it is
6 subject to the same defects as those discussed by Applicant in its Response. In addition, and
7 with reference to the referenced prepared testimony of Commission Staff Witness Crandall, that
8 testimony is yet to be tested through cross-examination by the parties and questioning from the
9 assigned Administrative Law Judge and members of the Commission. Hence, it offers
10 absolutely no probative value in connection with a ruling on the Motion and the first motion in
11 the Joinder.

12
13 **III.**
COMMENCEMENT OF THE EVIDENTIARY
HEARING SHOULD NOT BE DELAYED

14 With reference to the second motion in the Joinder, if oral argument is to be held in
15 connection with a ruling on the Motion, such oral argument should be made directly to the
16 members of the Commission for the reason discussed in Section V of Applicant's February 6,
17 2008, Response. However, Applicant believes that the Motion can, and should, be denied on the
18 basis of the arguments set forth in Applicant's Response thereto.

19 In the Joinder, AIC requests that oral argument on the Motion be set for February 19,
20 2008,

21 "...which currently is scheduled for a hearing day..." [Joinder at
22 page 2, lines 4-5]

23 * * *

24 "...in order to allow the parties, the Administrative Law Judge and
25 the Commission sufficient time to brief and evaluate the [NWEAC]
26 motion..." [Joinder at page 2, lines 3-4] [emphasis added]

27 Respondent is unsure what AIC has in mind in the nature of "brief[s]," inasmuch as responses to
28 the Motion were due on February 6, 2008, pursuant to the Eighteenth Ordering Paragraph of the
December 4, 2007, Procedural Order issued in this proceeding. Thus, there would not appear to

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1 be a need for further briefing. However, if oral argument is to be held, it should be held before
2 the February 19, 2008, hearing date, which was selected to accommodate the schedule of Air
3 Liquide's expert witness.¹ Due to pre-existing commitments, he will be unavailable to testify on
4 the March 3-4, 2008, hearing days.

5
6 **IV.
CONCLUSION**

7 For the reasons set forth in Applicant's February 6, 2008, Response to NWECC's Motion,
8 both the Motion and the first motion in the Joinder should be denied forthwith. For the reasons
9 set forth above in this Response to the second motion in AIC's Joinder, if oral argument is to be
10 held prior to a ruling on the Motion, such oral argument should be (i) held before the members of
11 the Commission, and (ii) scheduled for a date prior to February 19, 2008.

12
13 Dated this 7th day of February 2008.

14
15 Respectfully submitted,
Lawrence V. Robertson, Jr.

16
17 and

18 Theodore Roberts
Attorneys for Sempra Energy Solutions, L.L.C.

19 By: Lawrence V. Robertson, Jr.
20 Lawrence V. Robertson, Jr.

21
22 The original and thirteen (13) copies of the
23 foregoing Response will be filed on
February 7, 2008 with:

24 Docket Control
25 Arizona Corporation Commission
26 c/o 400 West Congress, Suite 218
Tucson, Arizona 85701

27
28 ¹ In this regard, except for the Procedural Conference scheduled for 1:30 p.m. on February 11, 2008 in this proceeding to schedule witnesses, the undersigned Arizona counsel for Applicant will be unavailable on February 11-12, 2008, due to his representation of Pinal County in a hearing before the Arizona Power Plant and Transmission Line Siting Committee.

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A copy of the foregoing Response will be
emailed February 7, 2008 to:

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