

**ORIGINAL**

**COMMISSIONERS**  
KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

**OPEN MEETING ITEM**



0000106859

**ARIZONA CORPORATION COMMISSION**

DATE: JANUARY 15, 2010  
DOCKET NO.: E-03964A-06-0168  
TO ALL PARTIES:

Arizona Corporation Commission  
**DOCKETED**  
JAN 15 2010

DOCKETED BY *MM*

Enclosed please find the recommendation of Administrative Law Judge Teena Wolfe. The recommendation has been filed in the form of an Order on:

**SEMPRA ENERGY SOLUTIONS LLC  
(EXTENSION OF TIME DEADLINE CONTAINED  
IN DECISION NO. 70485)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JANUARY 25, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

FEBRUARY 2, 2010 and FEBRUARY 3, 2010

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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*E. G. Johnson*  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF  
9 SEMPra ENERGY SOLUTIONS LLC FOR A  
10 CERTIFICATE OF CONVENIENCE AND  
11 NECESSITY FOR COMPETITIVE RETAIL  
12 ELECTRIC SERVICES.

DOCKET NO. E-03964A-06-0168

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NO. 70485**

13 Open Meeting  
14 February 3 and 4, 2010  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 Having considered the entire record herein and being fully advised in the premises, the  
18 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

19 **FINDINGS OF FACT**

20 1. On March 16, 2006, Sempra Energy Solutions LLC ("Sempra") filed with the Arizona  
21 Corporation Commission ("Commission") an application for a Certificate of Convenience and  
22 Necessity ("CC&N") to provide competitive retail electric service.

23 2. Intervention in this matter was granted to Tucson Electric Power Company ("TEP");  
24 Arizona Public Service Company ("APS"); Air Liquide Industrial U.S. LP ("Air Liquide"); the  
25 Residential Utility Consumer Office ("RUCO"); the Salt River Project Agricultural and Improvement  
26 Project ("SRP");<sup>1</sup> New West Energy ("New West"); and the Arizona Investment Council ("AIC").

27 3. On February 1, 2008, New West filed a Motion to Dismiss, requesting that Sempra's  
28 application be found premature, and that it be dismissed without prejudice. AIC filed a joinder in  
New West's Motion to Dismiss. Responsive pleadings were filed by Staff, RUCO, New West, AIC,

<sup>1</sup> On August 29, 2007, SRP filed a Notice of Withdrawal of Intervention. By Procedural Order issued September 28, 2007, SRP was granted leave to withdraw its intervention.

1 and Sempra.

2 4. On February 19, 2008, oral argument was heard on the Motion to Dismiss and the  
3 related pleadings. Counsel for New West, AIC, RUCO and Staff presented oral argument in support  
4 of the Motion to Dismiss, and counsel for Sempra and Air Liquide presented oral argument in  
5 opposition to the Motion to Dismiss. Following oral argument, the Motion to Dismiss was taken  
6 under advisement.

7 5. The Commission issued Decision No. 70485 on September 3, 2008. Decision No.  
8 70485 denied New West's Motion to Dismiss. Decision No. 70485 also suspended Sempra's  
9 application, pending a determination of whether it is in the public interest at this time to grant  
10 CC&Ns authorizing the provision of competitive electric services to end users in Arizona.

11 6. Decision No. 70485 ordered Staff to commence public workshops within 90 days to  
12 address the underlying policy issue of whether retail competition is in the public interest and to  
13 examine the potential risks and benefits of retail competition. Decision No. 70485 set a deadline of  
14 December 31, 2009, for Staff to file a report, based on the public workshops, that includes Staff's  
15 recommendation as to whether or not retail competition should be implemented in Arizona and if so,  
16 how such implementation should proceed.

17 7. On December 29, 2009, Staff filed a Motion for an Extension of Time. In its Motion,  
18 Staff requested an extension of time until April 1, 2010, to file the report and recommendation. Staff  
19 stated that the extension of time is necessary not only due to Staff's workload, but also due to  
20 unresolved issues associated with Docket No. E-20690A-09-0346 ("SolarCity docket"), a pending  
21 case which involves a determination as to whether the applicant in that case should be regulated as a  
22 public service corporation. Staff asserted that unresolved issues in the SolarCity docket "may  
23 influence issues related to retail electric competition."

24 8. On December 30, 2009, Sempra filed a Response to Staff's Motion. Sempra stated  
25 that it is not opposed to a 30 day time extension, but that Sempra strongly opposes Staff's request for  
26 an extension of an additional 120 days. Sempra indicated that it does not share Staff's view that there  
27 is a linkage between this case and the SolarCity docket, because the Commission has previously  
28 determined that Competitive Electric Service Providers such as Sempra are to be regulated as public

1 service corporations.

2 9. On December 5, 2009, Staff filed a Reply in Support of Motion for Extension of Time.  
3 Staff stated therein that its request for more time is based on both resource constraints due to a  
4 steadily increasing workload, and also on the fact that matters remain unresolved in the SolarCity  
5 docket that may influence issues related to retail electric competition.

6 10. Staff's pleadings indicate that Staff anticipates that the scope of the Staff Report  
7 ordered by Decision No. 70485 will encompass issues currently being considered in the SolarCity  
8 docket.

9 11. It is reasonable at this time to grant Staff's request for an extension of time to 30 days  
10 following issuance of the Commission's Decision in the SolarCity docket, for the filing of the Staff  
11 Report ordered by Decision No. 70485, in order to allow time for the resolution of disputed issues  
12 related the retail electric competition in the SolarCity docket.

13 **CONCLUSIONS OF LAW**

14 1. Sempra is a public service corporation within the meaning of Article XV of the  
15 Arizona Constitution and A.R.S. §§40-281 and 40-282.

16 2. The Commission has jurisdiction over the subject matter of the request for extension  
17 for time to comply with Commission Decision No. 70485.

18 3. Staff's request for an extension of time for filing the Staff Report required by Decision  
19 No. 70485 is reasonable and should be granted.

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ORDER

IT IS THEREFORE ORDERED that Staff's request for extension of time to comply with Decision No. 70485, is granted, extending the compliance deadline for filing the Staff Report to no later than 30 days following issuance of the Commission's Decision in Docket No. E-20690A-09-0346.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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