

OPEN MEETING AGENDA ITEM



0000106934

ORIGINAL

LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW

EXCEPTION

P. O. Box 1448  
TUBAC, ARIZONA 85646

(520) 398-0411  
FAX: (520) 398-0412  
EMAIL: TUBACLAWYER@AOL.COM

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

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

January 22, 2010

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

Arizona Corporation Commission  
**DOCKETED**

JAN 25 2010

DOCKETED BY *[Signature]*

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

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are the original and thirteen (13) copies of Exceptions to Recommended Order Extending Time Deadline Contained in Decision No. 70485 ("Exceptions") on behalf of Sempra Energy Solutions LLC.

Also enclosed are two (2) additional copies of the Exceptions. I would appreciate it if you would "filed" stamp the same and return them to me in the enclosed stamped and addressed envelope.

Thank you for your assistance. Please advise Mr. Robertson or me if you have any questions.

Sincerely,

*Angela R. Trujillo*

Angela R. Trujillo  
Secretary  
Lawrence V. Robertson, Jr.

RECORDED  
2010 JAN 25 PM 4:07  
DOCKET CONTROL

OPEN MEETING AGENDA ITEM **EXCEPTION**

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

200 JUN 25 P 4:07

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

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION	)	DOCKET NO. E-03964A-06-0168
OF SEMPRA ENERGY SOLUTIONS LLC	)	
FOR APPROVAL OF A CERTIFICATE OF	)	SEMPRA ENERGY SOLUTIONS LLC'S
CONVENIENCE AND NECESSITY FOR	)	EXCEPTIONS TO RECOMMENDED
COMPETITIVE RETAIL ELECTRIC	)	ORDER EXTENDING TIME DEADLINE
SERVICES	)	CONTAINED IN DECISION NO. 70485

Pursuant to the January 15, 2010 letter of the Commission's Executive Director transmitting the Order Extending Time Deadline Contained in Decision No. 70485 ("Order") which has been recommended by the Commission's Hearing Division in the above-captioned and above-docketed proceeding, Sempra Energy Solutions LLC ("SES") hereby submits its Exceptions to the aforesaid proposed Order. In that regard, SES incorporates by reference its December 29, 2009 Response To Staff's Motion For An Extension Of Time ("Response") as background.

SES continues to oppose the extension of the 120-day deadline originally requested by the Commission Staff for the reasons indicated in SES' Response and these Exceptions. In addition, SES opposes the potentially even longer extension of the subject filing deadline which is provided for within the recommended Order. More specifically, the Order proposes to extend the deadline to a point in time

"... 30-days following issuance of the Commission's Decision in the SolarCity docket...",

which conceivably could be months after the 120-day deadline extension requested by the Commission Staff. As the Commission is aware, the SolarCity proceeding is a highly contested matter involving numerous parties, as well as representing a case of first impression for the

LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW  
P.O. Box 1448  
Tubac, Arizona 85646  
(520) 398-0411

LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW  
P.O. Box 1448  
Tubac, Arizona 85646  
(520) 398-0411

1 Commission on the jurisdictional issue which is being addressed. Accordingly, it would not be  
2 surprising if the Commission required a number of months before bringing that matter to a final  
3 resolution.

4 In addition, neither the Commission Staff's original Motion For Extension of Time  
5 ("Motion") nor the proposed Order articulate the specific nature of those

6 " . . . unresolved issues in the SolarCity docket [which] 'may  
7 influence issues related to retail electric competition.'" [Order at  
8 page 2, lines 22-23] [emphasis added];

9 and, there is no evidence within the instant proceeding to support Finding of Fact No. 11 in the  
10 proposed Order, which implicitly assumes that the Commission's forthcoming decision in the  
11 SolarCity proceeding will of necessity result in

12 " . . . resolution of disputed issues related [to] the retail electric  
13 competition. . ." [Order at page 3, lines 11-12] [emphasis added]

14 Neither the Motion nor the proposed Order demonstrate that in fact the assumed nexus between  
15 the SolarCity proceeding and the instant proceeding in fact exists, yet that assumed nexus has the  
16 effect of further postponing any meaningful progress in the instant proceeding towards a final  
17 decision for an indefinite period of time.

18 As noted in SES' Response, SES' Application for an Electric Service Provider CC&N  
19 was filed in April of 2006. The matter has languished for more than three and a half (3 ½) years  
20 now; and, SES believes that the Commission Staff should be required to proceed with issuance  
21 of the report which the Commission has ordered be prepared. In that regard, SES has previously  
22 indicated its receptiveness to an extension of less than the 120 days originally requested by the  
23 Commission's Staff. Moreover, SES believes that the required report could be amended or  
24 supplemented as and to the extent thereafter necessary, in the event that the Commission's future  
25 decision in the SolarCity proceeding in fact necessitates or suggests the appropriateness of an  
26 amendment or supplement to the report due in this proceeding.  
27  
28

1 Thus, for all of the above reasons, SES opposes both the 120-day extension originally  
2 requested by the Commission Staff in its Motion, and the "floating" extension proposed in the  
3 recommended Order.  
4

5 Dated this 22<sup>nd</sup> of January 2010.  
6

7 Respectfully submitted,

8 

9 Lawrence V. Robertson, Jr.\*  
10 Attorney for Sempra Energy Resources LLC

11 \* Note: Due to a pre-existing commitment, the  
12 undersigned counsel will be out-of-the-country  
13 during the period of January 29, 2010 –  
14 February 6, 2010; and, thus, he will be unable to  
15 attend the February 2, 2010 Open Meeting at  
16 which the proposed Order and all pleadings  
17 relating thereto may be considered.

18 The original and thirteen (13) copies of the  
19 foregoing Exceptions are being mailed for  
20 filing this 22<sup>nd</sup> day of January 2010 to:

21 Docket Control  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

25 A copy of the foregoing Exceptions will be  
26 mailed or emailed this same date to:

27 All Parties of Record  
28



LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW  
P.O. Box 1448  
Tubac, Arizona 85646  
(520) 398-0411