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January 25, 2010

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

Re: **Docket No. E-03675A-00-0951 and E-03964A-00-0951**
Decision No. 65123, 4th Quarter 2009 Compliance Filing

To Whom It May Concern:

Pursuant to Finding of Fact 9(e) and the Ordering Paragraphs of Commission Decision No. 65123, Sempra Energy Solutions LLC hereby respectfully submits as *Attachment A* to this letter, one (1) original and fifteen (15) copies of its quarterly compliance report. Please note that the Docket Numbers are printed on the bottom left corner of each page.

If you have any questions regarding this filing, please contact me at (619) 684-8200.

Sincerely,

S Chansouk

Symone Chansouk
Regulatory Compliance Analyst

Enclosures

Cc: Compliance Section

Arizona Corporation Commission
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Sempra Energy Solutions LLC, part of the Sempra Commodities group of companies, is not the same company as the utility, SDG&E or SoCalGas, and the California Public Utilities Commission does not regulate the terms of Sempra Commodities' products and services.

ATTACHMENT "A"

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Federal Energy Regulatory (FERC) Proceedings

1. SDG&E v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent Operator and the California Power Exchange – Docket No. EL00-95-000 and related dockets.

   Status: To the best of Sempra Energy Solutions' ("SES") information and belief, this docket remains open. In this proceeding, the FERC will establish a set of just and reasonable energy prices for transactions involving the California Independent System Operator ("CAISO") and California Power Exchange markets during the period October 2, 2000 through June 20, 2001, and then, based on such prices, the FERC will determine whether refunds are owed and establish a formula under which refunds are to be calculated. On March 26, 2003, the FERC issued an order on the methodology under which refunds are to be calculated. FERC is awaiting numbers from the CAISO before ordering specific refund amounts. Parties to this proceeding have sought rehearing of the FERC's March 26, 2003 Order, among others. FERC denied or clarified these requests by order dated October 16, 2003. On October 24, 2003, parties to the proceeding filed Petitions for Review of FERC Orders related to this proceeding with the United States Court of Appeals. Those petitions are presently pending in the 9th Circuit. On April 12 and 13, 2005, the Ninth Circuit heard oral argument on issues relating to the scope of the refund proceeding and whether the FERC had jurisdiction to order refunds from governmental entities. On September 6, 2005, the Ninth Circuit ruled that FERC did not have jurisdiction to order refunds from governmental entities. On August 2, 2006, the Ninth Circuit ruled on the other issues argued in April 2005 and remanded to FERC for further proceedings. On November 16, 2007, various sellers sought rehearing and en banc review of various aspects of the Ninth Circuit's decision, which the Ninth Circuit denied in April 2009. In May 2009, the California Parties moved FERC to consolidate and grant summary disposition of this matter and the matters pending (or to be remanded) in FERC Nos. EL01-10, EL02-71, EL09-56. Sellers, including Sempra Energy Solutions (SES) and Sempra Energy Trading (SET) filed an answer in August 2009. In November 2009, FERC issued an order establishing the parameters of the proceeding on remand. The remand proceeding is being held in abeyance pending FERC sponsored settlement discussions.

2. *FERC Show Cause Proceedings*. FERC Docket Nos. EL03-173-000 and EL03-201-000.

   Status: In May 2002, the FERC ordered all energy companies engaged in electric energy trading activities to state whether they had engaged in various specific trading activities in violation of the Power Exchange (PX) and ISO tariffs. On

June 25, 2003, the FERC issued several orders requiring various entities to show cause why they should not be found to have violated California ISO and CalPX tariffs. First, the FERC directed 43 entities, including SET, to show cause why they should not disgorge profits from certain transactions between January 1, 2000 and June 20, 2001 that were asserted to have constituted gaming and/or anomalous market behavior under the California ISO and/or PX tariffs. Second, the FERC directed more than 20 entities, including SET, to show cause why their activities, in partnership or alliance with others, during the period January 1, 2000 to June 20, 2001 did not constitute gaming and/or anomalous market behavior in violation of the tariffs. The FERC encouraged the various entities to settle these issues. On October 31, 2003, SET reached a settlement with the FERC in full resolution of these investigations. The SET settlement was approved by the FERC on August 2, 2004. The Attorney General of California, the California Electricity Oversight Board, the California Public Utilities Commission (CPUC), Southern California Edison Company, and Pacific Gas and Electric Company (collectively, the California Parties) requested rehearing, which FERC denied on November 14, 2008. FERC accepted a technical amendment to the settlement in February 2009.

3. *Investigation of Anomalous Bidding Behavior and Practices in the Western Markets*, FERC Docket No. IN03-10-000.

   Status: In this proceeding, FERC directed its Office of Market Oversight and Investigation ("OMOI") to investigate bids above $250 per MW made in the California ISO and Cal PX markets between May 1, 2000 and October 1, 2000. FERC terminated the investigation in a March 2005 order. The California Parties have appealed. The Ninth Circuit has stayed the petition for appellate review.

4. *Lockyer v. Coral Power, LLC et al.*, No. FERC-EL02-71-000.

   Status: In 2002, the state of California commenced proceedings before FERC against all sellers of electricity into California markets challenging (1) the Commission's market-based rate regime and (2) the adequacy of certain quarterly reports filed by sellers with FERC. FERC rejected California's claims. On appeal, in September 2004, a panel of the Ninth Circuit upheld the market-based rate regime but found that the Commission erred by concluding it had no legal authority to order refunds for violations of its reporting requirements. The opinion in part grants California's petition and remands the case to FERC to further consider additional refunds, as claimed by the California Parties. According to the opinion, "FERC may elect not to exercise its remedial discretion by requiring refunds, but it unquestionably has the power to do so." In August 2006, the Ninth Circuit denied the request of various sellers for rehearing and/or en banc review. Various sellers petitioned

the United States Supreme Court for *certiorari*. The state of California filed a cross-petition. In April 2007, FERC submitted papers opposing both the sellers' petition and California's cross-petition. In June 2007, the Supreme Court denied the petitions and cross-petitions for *certiorari*. On March 21, 2008, FERC issued a procedural order setting the matter for further hearings before an ALJ on remand. FERC issued a clarifying order on October 6, 2008, from which various parties have sought rehearing. FERC held the ALJ hearings in abeyance pending a FERC-sponsored settlement process which ended in April 2009. In May 2009, the CA Parties moved FERC to consolidate and grant summary disposition of this matter and the matters pending (or to be remanded) in FERC Nos. EL00-95, EL01-10, EL09-56. Sellers, including SET and SES filed an answer in August 2009. The California Parties filed their initial testimony on July 1, 2009. SET and SES filed responsive testimony on September 17, 2009. A hearing is scheduled for March 2010.

5. *Puget Sound Energy, Inc. et al. ("Puget Sound") v. All Jurisdictional Sellers of Energy and/or Capacity at Wholesale Into Electric Energy and/or Capacity Markets in the Pacific Northwest, Including Parties to the Western Systems Power Pool Agreement,* Docket Nos. EL00-95-000, *et al.*

   Status: On or about October 26, 2000, Puget Sound filed a complaint with FERC alleging that spot market prices in the Pacific Northwest were unjust and unreasonable. In the July 25 Order, FERC instituted an evidentiary proceeding for determining whether unjust and unreasonable prices may have been charged for spot market sales of energy into the Pacific Northwest (the "Pacific Northwest Proceeding"). As a net seller of energy into the Pacific Northwest spot markets, SET became subject to the Pacific Northwest Proceeding. On or about September 24, 2001, after extensive briefing and an evidentiary hearing, the Administrative Law Judge issued her Recommendations and Proposed Findings of Fact, concluding that no refunds be ordered and that the Pacific Northwest Proceedings be terminated. On June 25, 2003, FERC terminated the Pacific Northwest Proceeding, after finding that the equities do not justify the imposition of refunds. FERC denied all requests for rehearing of that order on November 10, 2003. FERC's June 25, 2003 and November 10, 2003 orders are currently the subject of appellate proceedings. After oral argument in January 2007, the Ninth Circuit Court of Appeals took the appeal under submission and, in August 2007, ordered that FERC reopen the proceedings to consider the possibility of ordering refunds. On December 17, 2007 various sellers sought rehearing of the Ninth Circuit decision, which the Ninth Circuit denied in April 2009. In May 2009, the California Parties moved FERC to consolidate and grant summary disposition of this matter and the matters pending (or to be remanded) in FERC Nos. EL00-95, EL02-71, EL09-56. Sellers, including SET filed an answer in August 2009. On Monday, June 29, 2009, the deadline to file cert petitions was extended until September 4, 2009. On September 4, 2009, Sellers,

including SET, filed in the US Supreme Court a petition for cert of the Ninth Circuit decision. An order granting or denying cert is expected by mid-December.

6. *People of the State of California, ex rel. Edmund G. Brown Jr., Attorney General of the State of California, v. Powerex Corp., et al.*

Stauts: On May 22, 2009, the CA Attorney General filed this action at FERC against various sellers of power to the CA state agency CDWR-CERS during the period Jan. 18 – June 20, 2001, including SET and SES. The complaint alleges that these sellers benefited from the improper exercise of market power and the violation of various tariffs by selling power to CERS at unjust and unreasonable prices. These allegations are not new – the CA AG is just proceeding upon a different legal theory (Section 309 of the Federal Power Act instead of Section 206). The remedies being sought are largely duplicative of those being sought in the Puget Sound and Lockyer proceedings. In May 2009, the CA Parties have moved FERC to consolidate and grant summary disposition of this matter and the matters pending (or to be remanded) in FERC Nos. EL00-95, EL01-10, EL02-71. SET and SES filed a motion to dismiss and answer on September 3, 2009.

State Court Proceedings

1. *Sempra Energy Resources v. California Department of Water Resources* and related cross-complaint – San Diego Superior Court Case No. GIC 789291.

Status: Action for relief on contract between SER and California Department of Water Resources ("CDWR"), and related cross-complaint. Action does not include allegations of market manipulation or improper trading practices. The Court granted SER's summary judgment motion on May 19, 2003, which resulted in judgment in SER's favor on both its complaint for Declaratory Judgment, and on CDWR's cross-complaint. On October 15, 2003, the Court clarified its earlier judgment and denied CDWR's motion for new trial. CDWR filed a Notice of Appeal on October 22, 2003. On June 21, 2005, the California Court of Appeals reversed the summary judgment decision, concluding that the contract language was ambiguous and that the claims raised by Sempra Generation's complaint and the DWR's cross-complaint for breach of contract and misrepresentation present triable issues of material fact that must be addressed by further evidence and proceedings in the trial court. On December 14, 2006, the court denied Sempra Generation's motion to determine that the April 2006 arbitration decision precluded certain of the DWR's claims. On January 4, 2007, the DWR filed an amended cross-complaint that contains additional claims and forms of relief. The court denied Sempra Generation's motion to compel the amended cross-complaint into arbitration on April 13, 2007. Sempra Generation filed a Notice of Appeal of the court's ruling on April 20, 2007, and the lower court's decision was affirmed on June 12, 2008.

2. *Continental Forge Company, et al. v. Southern California Gas Co. et al.* – San Diego Superior Court Case No. J.C.C.P. 4221, 4224, 4226 and 4228 (consolidated cases).

   Status: Action alleging that SoCalGas, SDG&E, Sempra Energy, and various El Paso Corporation entities conspired to eliminate competition and raise natural gas and electricity prices in violation of California antitrust and unfair competition laws. Action does not include allegations of improper trading practices. A number of complaints filed against the same party defendants on the same allegations by the cities of Vernon, Upland, Burbank, Glendale, and Culver City, the County of San Bernardino, the Imperial Irrigation District, Edgington Oil Company, World Oil Corp., and THUMS Long Beach Co. have been consolidated with the above-referenced San Diego actions. A settlement with 12 individual plaintiffs was announced on October 29, 2005. A settlement agreement resolving all class claims was announced on January 4, 2006 and approved in June 2006. All appeals of the settlement approval have been withdrawn.

3. *The State of Nevada v. El Paso Corporation, El Paso Natural Gas Company, et al.* – District Court, Clark County, Nevada, Case No. A458583.

   Status: Action alleging that SoCalGas, SDG&E, Sempra Energy, SET and various El Paso Corporation entities conspired to eliminate competition and raise natural gas and electricity prices in violation of antitrust and unfair competition laws. Action does not include allegations of improper trading practices. A settlement agreement was announced on January 4, 2006 and subsequently approved by the court in September 2006.

4. *Laurence Uyeda, et al., v. Centerpoint Energy, Inc.*, et al. – San Diego Superior Court Case No. GIC 810580; *Benscheidt, et al. v. AEP Energy Services, Inc, et al.* – San Diego Superior Court, Case No. GIC 825011; *City and County of San Francisco v. Sempra Energy, et al.* – San Diego Superior Court, Case No. GIC 832539; *County of Santa Clara v. Sempra Energy, et al.* – San Diego Superior Court, Case No. GIC 832538; *County of San Diego v. Sempra Energy, et al* – San Diego Superior Court, Case No. GIC833371; *County of Alameda v. Sempra Energy, et al.* – Alameda Superior Court, Case No. RG04182878; *Older v. Sempra Energy, et al.* – San Diego Superior Court, Case No. GIC 835457: *School Project For Utility Rate Reduction v. Sempra Energy, et al.* – Alameda Superior Court, Case No. RG04180958; *Nurserymen's Exchange, Inc. v. Sempra Energy, et al.* – San Mateo Superior Court, Case No. CIV442605; *The Regents of the University of California v. Reliant Energy, et al.* – Alameda Superior Court, Case No. RG04183086; *ABAG Publicly Owned Energy Resources v. Sempra Energy, et al.* – Alameda Superior Court, Case No. PG04186098; *Sacramento Municipal Utility District v. Reliant Energy Services, Inc.* – Sacramento Superior Court, Case No. 04AS04689; *County of San Mateo v. Sempra Energy, et al.* – San Mateo Superior Court, Case No. CIV443882; *City of San Diego v. Sempra Energy, et al* – San Diego Superior Court, Case No. GIC839407;

Owens-Brockway Glass Container, Inc. v. Sempra Energy, et al. – Alameda Superior Court, Case No. RG04192046.

Status: Various actions against numerous entities including, depending on the lawsuit, Sempra Energy, SET, SoCalGas, and SDG&E and one individual claiming that defendants acted and conspired to reduce competition and raise the price of natural gas in California through providing false information to natural gas trade publications and engaged in so-called wash trades and "churning" transactions. These actions have been coordinated in San Diego Superior Court. A settlement agreement resolving the *Uyeda*, *Benscheidt*, and *Older* cases was announced on January 4, 2006 and approved in June 2006. *Uyeda Benscheidt* and *Older* were not part of the *Continental Forge* case, but were settled in the same settlement that resolved that case. The other cases were settled as part of a separate settlement agreement on January 4, 2008.

5. *In re California Wholesale Electricity Antitrust Cases I and II (consolidated cases)* – San Diego Superior Court Case Nos. JCCP 4204-00005 and JCCP 4204-00006

   Status: Consolidated actions alleging that various entities including SET, SER, and Sempra Energy conspired to raise electricity prices in violation of California antitrust and unfair competition laws. Defendants' motions to dismiss on federal preemption and filed rate doctrine were granted on October 4, 2005. On January 11, 2007, the state Court of Appeals heard oral argument on plaintiff's appeal of the dismissal. In February 2007, the California Court of Appeals affirmed the dismissals.

6. *James M. Millar v. Allegheny Energy Supply Company, LLC, et al.* – San Francisco Superior Court Case No. CGC 02-407867

   Status: Action alleging that various entities coerced the DWR into long-term contracts to supply electricity that contained unfair and unreasonable terms in violation of California law. Defendants' motion to dismiss on federal preemption and filed rate doctrine grounds was granted September 2005 and plaintiff did not appeal.

7. *Preferred Energy Services, Inc. v. Reliant Energy Services, et al.* – Santa Clara Superior Court Case No. 104CV028096

   Status: Action filed against Sempra Generation in October 2004 in Santa Clara Superior Court, alleging claims substantively identical to those in the Port of Seattle case described below. This action was removed to the U.S. District Court in April 2005. The Sempra defendants filed an unopposed motion to dismiss on filed rate and federal preemption that was granted on December 28, 2006.

8. *People of the State of California ex rel. Bill Lockyer, Attorney General of the State of California v. Sempra Energy Trading Corporation [sic]* – Sacramento Superior Court Case No. 05AS05115

   Status: Action filed against SET in November 2005 alleging violations of California's Commodity and Unfair Competition laws. The action was removed to federal court and transferred to the MDL court. On November 15, 2006, the court granted SET's motion to dismiss on the basis of field and conflict preemption and the filed rate doctrine, and in the same order denied the Attorney General's motion to remand the action to state court. The Attorney General has appealed the district court's order. The appeal was argued before the Ninth Circuit Court of Appeals on June 5, 2008. On September 11, 2008, the Ninth Circuit affirmed the denial of remand and the granting of SET's motion to dismiss.

9. *People of the State of California ex rel. Bill Lockyer, Attorney General of the State of California, and the California Public Utilities Commission v. Sempra Energy, et al.* – San Diego Superior Court Case No. GIC857224

   Status: Action filed in November 2005 against Sempra Energy, SDG&E, and SoCalGas alleging violations of California's Unfair Business Practices Act and Public Utilities Code related to natural gas curtailments. In September 2006, the parties settled the case.

<u>Federal Court Proceedings</u>

1. *Public Utility District No. 1 of Snohomish County v. Dynegy Power Marketing, Inc. et al.* – USDC, Central District of California, Western Division, Case No. 02-5553 TJH (RZK)

   Status: Action against various entities, including SET and SER, for alleged manipulation of the wholesale electricity markets. The federal district court dismissed the action based on federal preemption in January 2003. The Ninth Circuit Court of Appeals subsequently affirmed the dismissal. The U.S. Supreme Court declined to review the decision in June 2005.

2. *Sierra Pacific Resources v. El Paso Corporation* -- United States District Court, District of Nevada, Case No. CV-S-03-0414-JCM-RJJ

   Status: In April 2003, Sierra Pacific Resources and Nevada Power Co. filed a lawsuit in a Nevada federal court against various El Paso Corp. and Dynegy Corp. entities, as well as SoCalGas, SDG&E, and Sempra Energy, claiming that the parties conspired to eliminate competition and raise natural gas and electricity prices in violation of antitrust, RICO, and unfair competition laws. In November 2004, the Court granted with prejudice defendants' motion to dismiss the second amended complaint. On September 21, 2007, the Ninth

Circuit Court of Appeals reversed and remanded the matter to the Federal District Court of Nevada. The Parties reached a settlement in November 2008.

3. *Port of Seattle v. Avista Corporation* – United States District Court, Western District of Washington at Seattle Case No. CV03-1170P

   Status: Action against various entities including Sempra Energy, SER and SET asserting federal and state antitrust and RICO claims for allegedly conspiring to manipulate the price of electricity. The case was transferred to the federal district court in San Diego, California, which dismissed the complaint on May 12, 2004. Port of Seattle appealed, and the Ninth Circuit affirmed the dismissal in March 2006 based on conflict preemption.

4. *Cornerstone Propane Partners, L.P. v. Reliant Energy Services, Inc., et al.* – United States District Court, Southern District of New York Case No. 03CV 6186; Dominick Viola v. Reliant Energy Services, Inc., et al. – United States District Court, Southern District of New York Case No. 03CV9039

   Status: Action against various entities, initially including Sempra Energy and SES, asserting violations of the Commodity Futures Trading Act based upon allegations of natural gas wash trading activity and misreporting to natural gas trade publications. On December 24, 2003, plaintiff filed a Notice of Voluntary Dismissal Without Prejudice as to Sempra Energy. On January 14, 2004, plaintiffs filed a Notice of Voluntary Dismissal Without Prejudice as to Sempra Energy Solutions. On January 20, 2004, plaintiffs filed an amended complaint that names Sempra Energy Trading as the sole Sempra Energy company defendant. The parties entered into a settlement agreement, which was approved by the court on May 19, 2006.

5. *Texas-Ohio Energy, Inc. v. Centerpoint Energy, Inc., et al.* – United District Court, Eastern District of California Case No. CIV.S-03-2346 DFL GGH

   Status: Action against various entities including SET and Sempra Energy claiming that defendants restrained competition, and acted to raise the price for natural gas. In this action, both Sempra Energy and SET are alleged to have misreported natural gas prices and engaged in wash trades of natural gas in violation of antitrust and unfair competition laws. The matter has been transferred to the Federal District of Nevada. Sempra Energy was dismissed without prejudice from the action in December 2004 pursuant to stipulation. On April 8, 2005, the Court granted the defendants' motion to dismiss the case based on the filed rate doctrine. After oral argument in February 2007, the Ninth Circuit Court of Appeals took plaintiffs' appeal under submission and in September 2007 reversed the district court and remanded. The parties reached a settlement on August 29, 2008.

6. *Wah Chang v. Avista Corporation, et al.* – United District Court, District of Oregon Case No. CV 619-AS

   Status: Action against various entities including Sempra Energy, SER, and SET alleging that defendants conspired to fix electricity prices and restrain trade in violation of federal antitrust and RICO laws. This case was transferred to the federal court in San Diego. Defendants' motion to dismiss was granted based on federal preemption and the filed rate doctrine on February 11, 2005. Plaintiffs filed an appeal on March 10, 2005. On November 20, 2007, the Ninth Circuit Court of Appeals affirmed the trial court's dismissal. On December 3, 2007, plaintiffs requested re-hearing of the decision, which was denied on January 15, 2008.

7. *City of Tacoma v. American Electric Power Service Corp. et al.* – United States District Court, Western District of Washington at Tacoma Case No. C04-5325 RBL

   Status: Action against various entities including Sempra Energy, SDG&E, SER, and SET alleging that defendants conspired to fix electricity prices and restrain trade in violation of federal antitrust laws. The action has been transferred to the federal court in San Diego. Defendants' motion to dismiss was granted based on federal preemption and the filed rate doctrine on February 11, 2005. Plaintiffs filed an appeal on March 10, 2005. On March 20, 2007, the Ninth Circuit Court of Appeals dismissed the appeal with prejudice pursuant to a settlement between the parties.

8. *Fairhaven Power Company v. Encana Corp., et al.* – United States District Court, Eastern District of California at Fresno Case No. CIV-F-04-6256 0WW LJ0; *Utility Savings v. Reliant, et al.* – United States District Court, Eastern District of California at Fresno Case No. CIV-04-6626 0WW LJ0; *Abelman Art Glass v. Reliant, et al.* – United States District Court, Eastern District of California at Fresno Case No. CIV-F-04-6684 OWW SMS; *Ever-Bloom, Inc, et al. v. AEP Energy Services, Inc., et al.* – United States District Court, Eastern District of California at Fresno Case No. 1:05-CV-00814-AWI-DLB.

   Status: Actions filed against numerous entities, including Sempra Energy and SET, claiming that defendants acted and conspired to reduce competition and raise the price of natural gas in California through providing false information to natural gas trade publications and engaged in so-called wash trades. Cases have been consolidated and transferred to the District of Nevada in MDL 1566. Defendants moved to dismiss the amended complaints on preemption and filed rate grounds in July 2005. Defendants' motion to dismiss was granted on December 27, 2005. These cases have been consolidated on appeal before the Ninth Circuit with *Texas-Ohio*, in which the Ninth Circuit reversed

the district court and remanded (described above). The parties reached a settlement on August 29, 2008.

Other Investigations

1. Public Utilities Commission of Texas ("PUCT") Investigation into Possible Manipulation of the ERCOT Market – Project 25937.

   Status: To the best of SES' information and belief, this docket remains open, and may be accessed by the Commission at http://www.puc.state.tx.us/index.cfm. With respect to SES and its affiliated companies, SES and SET were requested to file, and separately filed responses to the PUCT's June 12, 2002 requests for discovery and ethical certification.

2. California Attorney General Investigation of Possibly Unlawful, Unfair or Anticompetitive Behavior Affecting Electricity Prices in California.

   Status: Sempra Energy and its affiliated companies have received requests for information related to this matter and are cooperating. Several of Sempra Energy's senior officers testified at investigational hearings in connection with the investigation in late 2004, including its President and Chief Operating Officer, Executive Vice President and Chief Financial Officer, and the Group President of the Sempra Energy Utilities. Sempra Energy does not possess any transcripts of the testimony. Sempra Energy has no reason to believe that this investigation is still open.