

Decision 98-12-012 December 3, 1998

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San Diego Gas & Electric Company U 902-E) for Authority to Sell Electrical Generation Facilities and Power Contracts.

Application 97-12-039  
(Filed December 12, 1997)

**INTERIM OPINION**

**ORIGINAL**

On October 13, 1998, the Commission's Energy Division published a proposed Mitigated Negative Declaration and Initial Study for the divestiture application of San Diego Gas & Electric Company (SDG&E) to sell two fossil fuel plants, 17 combustion turbines, and other assets (the Mitigated Negative Declaration) for a 30-day review and comment period. The Mitigated Negative Declaration demonstrates that, as to each environmental topic, either the divestiture project will not have a significant effect on the environment, or revisions in the project plans agreed to by SDG&E, prior to the release for public review of the Mitigated Negative Declaration, will avoid the identified significant environmental impacts, or mitigate them to a point where clearly no significant impacts will occur. Public notice of the Commission's proposal to adopt the Mitigated Negative Declaration and of the availability of the Mitigated Negative Declaration for review and comment was provided to members of the public and government agencies, and the Mitigated Negative Declaration was submitted to the State Clearinghouse for distribution to state agencies.

During the public review and comment period, which ended on November 12, 1998, the Commission received numerous written comments on the proposed Mitigated Negative Declaration. Although not required by the California Environmental Quality Act (Public Resources Code Sections 21000,

*et seq.*) (CEQA), the Energy Division prepared written responses to the comments received. Certain of the written responses propose changes to the text of the Mitigated Negative Declaration, and we have incorporated the changes proposed by the Energy Division into the Mitigated Negative Declaration. Neither the written comments received nor the responses prepared by the Energy Division contain substantial evidence that the proposed asset sales will generate significant environmental impacts that cannot be mitigated. The Mitigated Negative Declaration is available to the parties to this application and the public by the methods set forth in Attachment A.

The Energy Division has also prepared a Mitigation Monitoring and Reporting Program for the divestiture application (the MMRP). The MMRP is designed to ensure compliance during project implementation with the mitigation measures contained in the Mitigated Negative Declaration, if the divestiture application is ultimately approved.

Having considered the information in the Mitigated Negative Declaration, and the comments on it and the responses to comments, we find that revisions in the project plans made by, or agreed to by, the applicant before the Mitigated Negative Declaration was released for public review will avoid the significant effects of the proposed sales, or mitigate them to a point where clearly no significant effects on the environment will occur. We also find there is no substantial evidence in light of the record as a whole that the proposed sales, as revised by the mitigation measures contained in the Mitigated Negative Declaration, may have a significant impact on the environment. Accordingly, we adopt the Mitigated Negative Declaration for the SDG&E divestiture application. In addition, we adopt the MMRP.

No action is being taken on the divestiture application at this time. When the application is before us for our final approval, we will consider the findings and conclusions of the Mitigated Negative Declaration and, if we approve the application, the mitigation measures within the MMRP will be made a condition of approval.

**Findings of Fact**

1. The Mitigated Negative Declaration reflects the independent judgment of this Commission.

2. The contents of the Mitigated Negative Declaration conform to the requirements of CEQA.

3. The Mitigated Negative Declaration identified no significant environmental effects of the project that could not be avoided or reduced to non-significant levels by changes to the project that have been accepted by SDG&E.

4. The Commission will consider the Mitigated Negative Declaration when it decides whether to grant SDG&E the authority to transfer the assets it seeks to divest.

**Conclusions of Law**

1. The Mitigated Negative Declaration has been processed in compliance with the requirements of CEQA.

2. The Mitigated Negative Declaration has been completed in compliance with the requirements of CEQA.

**INTERIM ORDER**

**IT IS ORDERED that:**

1. The Mitigated Negative Declaration related to the application in this proceeding is adopted pursuant to the requirements of the California Environmental Quality Act.
2. The mitigation, monitoring, and reporting program prepared by the Energy Division for the project is approved.
3. The Energy Division shall lodge the Mitigated Negative Declaration and the mitigation, monitoring, and reporting program with Central Files as part of the record in this proceeding.

This order is effective today.

Dated December 3, 1998, at San Francisco, California.

**RICHARD A. BILAS**  
President  
**P. GREGORY CONLON**  
**JESSIE J. KNIGHT, JR.**  
**HENRY M. DUQUE**  
**JOSIAH L. NEEPER**  
Commissioners

STATE OF CALIFORNIA  
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PETE WILSON, *Governor*



December 3, 1998

To All Parties and Energy Subscribers:

This note is written to inform you that the Energy Division's Final Mitigated Negative Declaration on San Diego Gas & Electric's divestiture application (A.97-12-039) was previously mailed to all commenters on the Draft Negative Declaration and all parties on the Service List on November 23, 1998. The document has not been amended or modified since its mailing.

The Final Mitigated Negative Declaration has been posted on the Internet for viewing or downloading at the following address:

[www.sdgedivest.com](http://www.sdgedivest.com)

If you did not receive a copy of the Final Mitigated Negative Declaration, or are unable to access the document electronically, please call Mr. Dail Miller of Environmental Science Associates at (415) 896-5900.

The Final Mitigated Negative Declaration was also available in the Commission's Escutia room at today's Commission meeting (December 3, 1998).

Energy Division  
California Public Utilities Commission

(END OF ATTACHMENT A)