

RESOLUTION NUMBER R-294538

ADOPTED ON FEBRUARY 12, 2001

WHEREAS, since the summer of 2000 the citizens of the City of San Diego [San Diego] have been experiencing a crisis in the cost of electricity; and

WHEREAS, recently that crisis now exists throughout the entire State of California, and has been coupled with a crisis in the available supply of electricity to the entire state; and

WHEREAS, the crisis in cost and supply has led to rolling blackouts of electricity throughout the state; and

WHEREAS, the Federal Energy Regulatory Commission [FERC] found, in its November 1, 2000, Order Proposing Remedies for California Wholesale Electric Markets, that the rates charged for wholesale electricity to California during the summer of 2000 were "unjust and unreasonable;" and

WHEREAS, despite this finding, FERC has so far abdicated its responsibility to effectively protect the consumers of the nation and state from the exercise of market power by producers of electricity; and

WHEREAS, neither the federal nor state government, nor their respective regulatory agencies with oversight in the field of electricity generation, transmission and distribution, have formulated or implemented effective measures to alleviate the crisis being experienced in San Diego and the State of California; and

WHEREAS, on July 25, 2000, the City Council adopted Resolution No. R-293560, which declared a state of economic emergency in San Diego as a result of the high cost of

electricity, and made certain policy recommendations and directives regarding the crisis; and

WHEREAS, it is now necessary and appropriate for the City Council to restate its position with regard to the electricity crisis in light of current circumstances, and make further recommendations and directives; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The declaration of the state of economic emergency in San Diego, which state has only worsened since initially declared in July of 2000, continues in force and effect.
2. Governor Gray Davis, having declared as of January 17, 2001, a state of emergency for the entire State of California as a result of the electricity crisis, should sponsor and support legislation that will provide financial relief to the citizens of San Diego and the state for the unjust and unreasonable rates charged by producers of electricity.
3. Federal, state and, where appropriate, local lawmakers, executives and regulators should support and adopt measures to: 1) immediately regulate the wholesale price of electricity based upon the cost to produce plus a reasonable rate of return; 2) require producers of electricity to sell to the California market electricity at such rates, in necessary and appropriate amounts, until such time as the supply of electricity for California becomes sufficiently abundant and diversified that the free market can operate effectively; and 3) remove current barriers to the entry of the market for electricity, including streamlining the siting and development process for electric generation, transmission and distribution facilities, and which provide incentives for the creation of such facilities. The City Manager and City Attorney are directed to immediately undertake a review of San Diego's regulations and policies on the siting and development of electric generation, transmission and distribution facilities, and make appropriate

recommendations to the Mayor and City Council in light of the current crisis and consistent with this resolution.

4. The State of California should not implement laws or policies that penalize or double tax the citizens and ratepayers of San Diego by requiring them to buy down the electricity rate balancing account as well as fund, through the use of State issued bonds supported by tax revenues, a subsidy or bailout of the investor owned utilities, San Diego Gas & Electric, Pacific Gas & Electric and Southern California Edison.

5. The City Attorney is authorized and directed, utilizing the legal team assembled for this purpose, to aggressively pursue such federal and state regulatory remedies as may be available, consistent with the matters set forth in this resolution, to ensure the reliable supply of electricity and natural gas to San Diego and California at reasonable prices. Such remedies may include the pursuit of necessary or appropriate judicial review of regulatory orders. The City Attorney is further directed to regularly report to the City Council on the efforts of the legal team, and to implement direction as may be given by the City Council regarding these matters.

6. The City Manager is directed to implement the Mayor's recommendation for an "energy czar" or energy oversight position to oversee San Diego's efforts at energy self-reliance and conservation by pursuing the following initiatives: 1) The utilization of renewable energy sources such as solar or hydroelectric; 2) A study of the feasibility of a municipal utility district; 3) Report back to the City Council with a comprehensive energy conservation program for all City facilities within 60 days; 4) Report back to the City Council regarding incentives to encourage energy conservation in new private development within 90 days; 5) A public education program to encourage citizen energy conservation; and 6) Monitor the electricity and

natural gas crises on all fronts, facilitate coordination of San Diego's legislative activities, and provide frequent updates in writing to the Mayor and City Council.

7. The Intergovernmental Relations Department [IRD] is directed to place the highest priority in San Diego's federal and state legislative and lobbying efforts on the matters set forth in this resolution. Specifically, the City of San Diego supports H.R. 268, sponsored by Congressman Bob Filner, and urges Congress to adopt that measure. Furthermore, IRD, the City Manager and City Attorney, in cooperation with the energy oversight position referenced above, are directed to work together to formulate and pursue necessary federal or state legislation, as may be approved by the City Council, to accomplish the recommendations set forth in this resolution in the event that the federal and state regulatory agencies abdicate their responsibility to protect the interests of consumers, or if those agencies do not have jurisdiction to implement effective measures. IRD, in cooperation with the energy oversight position, is further directed to provide continuing and complete analysis to the City Council of federal and state legislation and regulatory orders affecting the matters set forth in this resolution.

BE IT FURTHER RESOLVED, as follows:

8. The state Attorney General and federal Department of Justice should investigate whether there has been collusion, price fixing or any other unlawful exercise of market power or anti-competitive activity by any of the involved or related parties in the production, transmission and distribution of electricity.

9. The City Manager and City Attorney, in cooperation with the energy oversight position, are directed to report back to the Mayor and City Council on viable options for energy self-sufficiency such as aggregation or the formation of a public utility district, and to explore

possible joint ventures with public or private entities to develop additional electricity supplies. The City Manager and City Attorney are further directed to solicit and work with other interested public agencies in the County in their evaluation.

10. Federal and state lawmakers and regulators should immediately support the widespread use of real-time metering to give consumers more information and control over their energy consumption.

11. Federal, state and local lawmakers should require electricity service providers to implement energy conservation incentives, including rebates, to homeowners and small businesses, consistent with such incentives as may be provided to large customers. The City Manager is directed to immediately examine San Diego's policies for conservation incentives, and make appropriate recommendations to the Mayor and City Council.

BE IT FURTHER RESOLVED, that copies of this resolution shall be immediately forwarded to the appropriate federal, state and local lawmakers, executives and regulators.

APPROVED: CASEY GWINN, City Attorney

By



Leslie J. Girard
Assistant City Attorney

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