



News for Immediate Release
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DWR Awarded More Than \$70 Million in
Dispute with Sempra Energy

Arbitration Panel Rules Sempra Energy Acted in Bad Faith and in Breach of Multiple Aspects of its Long-Term Energy Contract with DWR

Sacramento – The California Department of Water Resources (DWR) has been awarded more than \$70 million in damages from Sempra Generation by an independent arbitration panel. The panel ruled that Sempra had acted in bad faith and breached multiple operational aspects of its long-term energy contract with the Department.

“This is an important win for California and electricity ratepayers who have had to absorb the unfair high cost from energy companies like Sempra,” said DWR’s Chief Deputy Director Nancy Saracino. “Sempra’s performance has been less than admirable, and we’re very pleased that an independent panel of judges has found them in breach of their obligations and directed them to comply with our contractual agreements.”

DWR expects the monetary amount awarded to increase significantly. Sempra must pay the state \$37.6 million plus interest for breaches of its energy delivery planning obligations and for overcharges to electricity ratepayers. The ruling precludes overcharges in the future and significantly restricts Sempra’s ability to claim unlimited operating flexibility. This will result in tremendous operational benefits and multi-million dollar savings for ratepayers over the remaining five years of the contract.

In addition, the ruling allows DWR to update its damages, adding from eight to 12 or more months worth of additional overcharges, plus 10 percent interest. The Department is in the process of calculating those additional damage amounts, but the total cash payment Sempra will owe DWR will likely exceed \$70 million.

The Department expects the ultimate value of the award to significantly exceed \$70 million because the ruling also governs Sempra’s conduct for the remaining term of the contract.

Specifically, it should prevent Sempra from attempting to overcharge DWR again in the future. Likewise, it will restrict Sempra's ability to claim unlimited operating flexibility. This will result in significant operational benefits for DWR and additional multi-million dollar savings for ratepayers over the remaining five years of the contract.

The 10-year agreement with Sempra is one of the largest in DWR's portfolio of long-term energy contracts that it entered into in May 2001 as a result of the electricity crisis. The day-to-day operational aspects of the contract were allocated by the California Public Utilities Commission to Southern California Edison (SCE) on January 1, 2003 to be used in meeting the energy demands of SCE's customers.

The panel found that Sempra engaged in a broad pattern of misconduct that spread across many fundamental aspects of the energy supply contract. In particular, the panel found that:

- Sempra breached its duty to act in conformity with its energy delivery plans;
- Sempra breached its duty to provide meaningful plans for the supply of natural gas;
- Sempra acted in bad faith by delivering energy to points Sempra knew were congested and knew that it was expensive or impossible for the energy to flow to ratepayers;
- Sempra consistently included impermissible charges in its invoices to DWR.

The Department originally filed the Demand for Arbitration, which is available to both parties of the long-term contract, on February 19, 2004 to seek damages and resolve Sempra's poor performance in the contract.

Currently, DWR also has two additional, separate challenges pending against Sempra. The first is another dispute under the same contract arising out of Sempra's failure to construct a power plant as originally promised. That dispute, pending before the San Diego Superior Court, will go to trial later this year and seeks termination of the contract. The second dispute is pending arbitration regarding Sempra's energy scheduling practices at its power plant in Mexicali, Mexico.

For more information on the Sempra contract and the Department's role in the energy crisis, visit www.cers.water.ca.gov.

The Department of Water Resources operates and maintains the State Water Project, provides dam safety and flood control and inspection services, assists local water districts in water management and water conservation planning, and plans for future statewide water needs.

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