STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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TO PARTIES OF RECORD IN APPLICATION 07-02-022

This is the proposed decision of Administrative Law Judge (ALJ) Jean Vieth. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Vieth at xjv@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ MARYAM EBKE for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:gd2

Attachment

Decision **PROPOSED DECISION OF ALJ VIETH** (Mailed 2/21/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Facilities with Voltages between 50 kV and 200 kV: El Casco System Project.	Application 07-02-022 (Filed February 16, 2007)

DECISION GRANTING THE PETITION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR MODIFICATION OF DECISION 08-12-031, SUBJECT TO MITIGATION IDENTIFIED IN THE SUPPLEMENTAL FINAL ENVIRONMENTAL IMPACT REPORT

1. Summary

This decision grants, subject to specified environmental mitigation measures, Southern California Edison Company's petition for modification of Decision 08-12-031 and authorizes construction of the El Casco System Project in accordance with certain design modifications necessitated by final engineering. Those design changes have required additional environmental review of Segments 2 and 4 of the project. As the lead agency for environmental review of the project, we certify that the Supplemental Final Environmental Impact Report meets the requirements of the California Environmental Quality Act and find that there are overriding considerations that merit approval of the proposed design changes, notwithstanding several significant and unavoidable environmental impacts identified in the area of visual resources. This proceeding is closed.

2. Background and Procedural History

By Decision (D.) 08-12-031 the Commission granted Southern California Edison Company (SCE) a permit to construct (PTC) certain electrical facilities known as the El Casco System Project (El Casco Project). As approved, the El Casco Project, which is located entirely within Riverside and San Bernardino Counties, includes the following major components:

- construction of a 220/115/12 kilovolt (kV) substation (El Casco Substation), associated 220 kV and 115 kV interconnections, and new 12 kV line getaways on an approximately 28 acre site located within the Norton Younglove Reserve in Riverside County, California;
- upgrade of a total of approximately 15.4 miles of 115 kV subtransmission lines and associated structures within existing SCE rights-of-way in the Cities of Banning and Beaumont and unincorporated Riverside County;
- rebuilding of 115 kV switchracks within SCE's existing Zanja and Banning substations in the Cities of Yucaipa and Banning, respectively; and
- installation of fiber optic cables within public streets and on or through existing overhead and underground structures and conduits within the Cities of Redlands and Banning.

D.08-12-031 granted a PTC for the El Casco Project pursuant to General Order (GO) 131-D, which requires that the Commission review and approve the project in compliance with the California Environmental Quality Act (CEQA) and that the project complies with the Commission's electromagnetic field (EMF) guidelines. Consistent with lead agency responsibilities under CEQA, the Commission certified the Final Environmental Impact Report (EIR) and Recirculated Final EIR.

SCE's petition for modification of D.08-12-031, filed August 29, 2011, asks the Commission to modify certain aspects of the conceptual design for the approved El Casco Project to conform to final engineering. The design changes affect Segments 2 and 4 of the project, which has not been built yet; other segments of the project are under construction at present or have been completed. As discussed in greater detail below, the nature of the proposed changes required additional environmental review of Segments 2 and 4.

No protests or responses to SCE's petition for modification were filed. Pursuant to CEQA Guidelines §15163(a), the Commission determined to prepare a Supplemental EIR for the El Casco Project. The Commission released the Supplemental Draft EIR for public review on November 30, 2011 and issued the Supplemental Final EIR on February 17, 2012.

3. Proposed Changes to Project Design

As described in the Final EIR/Recirculated Final EIR, the 115 kV subtransmission line upgrade, subsequently approved by D.08-12-031, includes installation of approximately 225 new steel poles, ranging from 65 to 85 feet tall. The project description, based on the conceptual design, anticipates use of both bolted-base tubular steel poles (TSP) and direct-buried lightweight steel (LWS) poles, in the ratio of approximately 25 percent TSP and 75 percent LWS. Except for poles installed at the substation site, the project description also contemplates placement of all poles within existing 115 kV rights-of-way (ROW) or along public street ROW. Steel poles that replace existing wooden poles in existing ROW generally are to be sited at the same location (defined as within 10 feet of the poles they replace).

In the course of performing the final engineering for the project, SCE determined that nearly double the number of poles would be required to upgrade Segments 2 and 4 of the 115 kV subtransmission line and these poles would need to be spaced much more closely than previously contemplated. Specifically, Segment 2 would require 61 poles (instead of 33) and Segment 4 would require 57 poles (instead of 30). In addition, the pole heights in Segments 2 and 4 would increase, with a new range of 75 to 120 feet, rather than 65 to 85 feet.

SCE's petition explains that the increased pole count, tighter spacing and greater pole heights in Segments 2 and 4 result from SCE's efforts to arrive at an optimal solution for adjusting the subtransmission line's conceptual design to meet all engineering requirements. SCE's process for final engineering considered a number of factors, including terrain requirements along the length of the subtransmission line, the results of a detailed property rights check, strength ratings for individual structures, wind loading, the costs of the two types of poles (LWS poles are less costly to purchase and construct), likely environmental consequences of specific design change options, and permitting requirements.

The petition states:

> [C]hanges to the conceptual design were both necessary and unavoidable. And, modifications to the design of particular segments had ramifications for the remainder of the line…a change in one segment would affect the design of other segments. The design evolved in this manner until SCE arrived at the now proposed final design, which is optimal, feasible, and cost-effective. (Petition at 8-9.)

The larger number of poles now proposed for Segments 2 and 4 is necessary to maintain, for the project as a whole, the relative 25 percent/75 percent ratio between the more costly TSP and less costly LWS poles. The petition states: "SCE cannot feasibly develop a final design for this subtransmission line with 225 poles in the ratio of TSPs and LWS poles initially described (25 percent and 75 percent, respectively)." (Petition at 8.)

As discussed further below, the Commission determined that SCE's final engineering resulted in design changes in Segments 2 and 4 substantially different from the project D.08-12-031 approved and accordingly, has undertaken additional environmental review pursuant to CEQA.

4. Requirements for Preparation and Review of a Supplemental EIR

CEQA Guideline §15162(a) requires a lead agency to prepare a subsequent or supplemental EIR in the following situations:

- An EIR has been certified for a project;
- An agency has additional discretionary authority over the project;
- The later action concerns the same project; and
- One of the following circumstances occurs --
  - substantial changes in a project would result in new or worsened significant environmental impacts, or
  - substantial changes in circumstances would result in new or worsened significant impacts, or
  - new information of substantial impact shows that:
    - the project will have new or worsened significant effects, or
    - mitigation measures or alternatives previously infeasible are now feasible but the project proponent declines to adopt them.

When only minor additions or changes to the prior EIR will enable it to apply adequately to a changed project, preparation of a supplemental EIR is appropriate. CEQA Guideline §15163(b) specify that a supplement need only contain that level of detail. Here, minor changes to the EIR certified by D.08-12-031 permit it to adequately address the substantial changes that the final engineering design requires in Segments 2 and 4 of the 115 kV subtransmission line.

A supplement must be given the same kind of notice and public review as the EIR (CEQA Guideline §15163(c)) and may be circulated by itself, without recirculation of the prior EIR (CEQA Guideline §15163(d)). When the agency decides whether to approve the project, however, the agency must consider the previous EIR as revised by the supplemental EIR (CEQA Guideline §15163(e)). Thus, here our consideration extends to the Final EIR/Recirculated Final EIR certified by D.08-12-031.

5. Discussion

5.1. Overview

D.08-12-031 summarizes all aspects of the Commission's review and approval of the El Casco Project and its grant of a PTC for the project. Before us now is SCE's request that we modify D.08-12-031 to authorize certain design changes within Segments 2 and 4 of the approved project. Also before us is the Supplemental Final EIR, which incorporates the Supplemental Draft EIR and reviews the potential environmental impacts of the proposed design changes.

As discussed in greater detail below, the Supplemental Final EIR determines that the design changes within Segments 2 and 4 result in environmental impacts in the area of visual resources. The proposed changes increase the visual impacts of the project both during construction and

afterward, and result in certain significant and unavoidable impacts because those impacts cannot be mitigated to a less than significant level. In addition, several visual impacts contribute to a cumulative impact that cannot be mitigated to a less than significant level. The changes proposed do not result in a substantial change to the impacts previously identified in other resource areas or create new impacts in those areas.

As also discussed below, the changes do not alter D.08-12-031's assessment of the greenhouse gas (GHG) impacts of the project or its EMF implications.

5.2. Visual Resources

The Supplemental Final EIR identifies and analyzes two types of visual impacts along Segments 2 and 4: construction impacts and impacts associated with project operation. The Supplemental Final EIR also performs a cumulative impact analysis of these visual impacts.

Mitigation can reduce all construction-related visual impacts to less than significant levels. These impacts comprise the kind of impacts that result from the presence and visual intrusion of construction vehicles, equipment, material, and work force at the construction and staging areas, as well as impacts attributable to land scarring at those sites. Mitigation for the former includes specific measures to reduce visibility of construction activities and equipment and to reduce construction night lighting. Mitigation of the latter includes reducing in-line views of land scars and reducing the visual contrast of unnatural vegetation lines.

Some visual impacts in Segments 2 and 4 associated with post-construction project operation do not rise to significant levels, but several will be significant and unavoidable. Based upon assessments from key viewpoints identified along the subtransmission line's route, these operational visual

impacts occur because of a visual increase in structure contrast, industrial character, view blockage, skylining (defined as an extension above the horizon line), and glare. The Supplemental Final EIR determines that no feasible mitigation is available to reduce these operational visual impacts along Segment 2 (viewed from Key Viewpoint 1 on South Sunset Avenue) and along part of Segment 4 (viewed from Key Viewpoint 2 on Faircliff Street). The visual impact elsewhere along Segment 4 (viewed from Key Viewpoint 3 on southbound State Route 79) is adverse but less than significant, which does not require mitigation.

5.3. Other Resource Areas and GHG Emissions

The Supplemental Final EIR also re-evaluates the impact of the proposed changes to the project on the following issue areas: air quality (Impact AQ-3 specifically addresses GHG emissions); land use; biological resources; cultural resources; geology and soils; hazards and hazardous materials; hydrology and water quality; noise; public services and utilities; and transportation. The Supplemental Final EIR determines that no additional impacts or new impacts would result in these areas. With respect to GHG emissions, since the design changes do not introduce more electrical switchgear equipment or circuit breakers, which generate the GHG sulfur hexafluoride (SF_6), the Supplemental Final EIR determines that the proposed changes to the project create no new, or substantially more severe, climate change impacts.

5.4. EMFs

Because CEQA does not define or adopt any standards to address the potential health risk impacts of possible exposure to EMFs, the Commission does not consider EMF issues in the context of CEQA. However, the Commission's GO 131-D, Section X, requires that PTC applications include a description of the measures undertaken or proposed to reduce the potential for exposure to any

project –generated EMFs. D.08-12-031 discusses SCE's proposed EMF mitigation measures and finds that they comply with the Commission's "no-cost, low-cost" interim EMF reduction policy.

The proposed changes to the project should not increase EMF impacts and actually may lessen them. The two major features of the changed design – taller poles at some locations, and at others, a greater number of poles, which will reduce line sag—will both raise the energized subtransmission line further above ground level.

SCE has not asked the Commission to revise the EMF mitigations D.08-12-031 orders and, on the record developed here, we have no independent reason to do so. Therefore, approval of the proposed changes to the project should require continued compliance with all EMF mitigation D.08-12-031 requires.

6. Certification of Supplemental Final EIR

In response to SCE's petition, the Commission's Energy Division has overseen preparation of a Supplemental Draft EIR, consisting of a new Executive Summary and Introduction (Section A), a description of the project modifications (Section B), an updated Visual Resource analysis (Section C.1), and a discussion of the other resource areas where the proposed changes in the project will not result in a substantial change to previously-identified impacts (Section C.2). The Commission released the Supplemental Draft EIR for public comment for the period November 30, 2011, through January 16, 2012.

The Supplemental Final EIR was completed after notice and opportunity for public comment on the Supplemental Draft EIR, as required by CEQA. The Supplemental Final EIR, which includes the Supplemental Draft EIR, documents all written and oral comments made on it the Supplemental Draft EIR, and

responds to the comments, as required by CEQA. The Supplemental Final EIR identifies the significant and unavoidable environmental impacts of the proposed changes to the project, as well as the mitigation measures that will avoid or substantially lessen them, where mitigation is possible.

All mitigation identified in the Supplemental Final EIR can be accomplished by extending to the modified project the Mitigation, Monitoring, Reporting and Compliance Plan (MMRCP) adopted for the approved project. In other words, the Supplemental Final EIR does not require any new mitigation (that is, no mitigation of an entirely different kind or type than the mitigation already specified in the MMRCP) but rather, requires that previously identified mitigation be applied to the project modifications, which we make a condition of our approval. For this reason, a second MMRCP is unnecessary and has not been prepared.

The Supplemental Final EIR was presented to us; we have reviewed Supplemental Final EIR and we have considered the information contained in it, in conjunction with the information in the Final EIR/Recirculated Final EIR. We certify that the Supplemental Final EIR has been completed in compliance with CEQA and that the Supplemental Final EIR reflects our independent judgment and analysis. Further, we have appended to today's decision, as Attachment A, the separate CEQA findings entitled "CPUC CEQA Findings of Fact."

7. Overriding Considerations

Pursuant to CEQA Guidelines §§ 15043 and 15093, the Commission may approve a project that results in significant and unavoidable impacts only upon a finding that overriding considerations exist.

D.08-12-031 approved the El Casco Project as the environmentally superior alternative in the Recirculated Final EIR, adopted a statement of overriding considerations, and certified the Final EIR/Recirculated Final EIR. In that statement of overriding considerations the Commission observed that none of the proposals was without unmitigable significant environmental impacts: "Any choice of alternative before the Commission, including making no choice, will lead to some significant environmental impact that cannot be mitigated." (D.08-12-031 at 23.) The Commission's analysis then factored in the undisputed need for the subtransmission line upgrade: "The present network configuration is prone to interruptions, and capacity is nearly exceeded today. Even with the economic slowdown, there is no substantive evidence that there will be no growth or a decline in demand. Therefore, some project is needed." (***Id.***)

This analysis continues to be compelling. We acknowledge the continued existence of the benefits the Commission found in D.08-12-031. With respect to Segments 2 and 4, however, completion of final engineering has shown that the conceptual design approved by D.08-12-031 is infeasible and must be revised. The final engineering proposed for the El Casco Project, together with the mitigations identified for Segments 2 and 4, appropriately modifies the approved project to minimize significant environmental impacts where possible. Thus, in light of all of these considerations and to the extent necessary, we find that there are overriding considerations that support our adoption of the proposed modifications to the El Casco Project. Each benefit set forth above and throughout this decision, and D.08-12-031, constitutes an overriding consideration approving the design modifications for the El Casco Project independent of the other benefits, despite each and every significant unavoidable impact.

8. Applicable Rule 16.4 Requirements

Rule 16.4 of the Commission's Rules of Practice and Procedure governs the filing of petitions for modification. We examine two aspects of Rule 16.4 in the context of this petition.

First, Rule 16.4(b) requires that a petition include "specific wording" to effectuate the modifications sought and that "[a]llegations of new or changed facts must be supported by an appropriate declaration or affidavit." SCE complies with both requirements. Attachment B to SCE's petition includes proposed revisions to the Findings of Fact for D.08-12-031. Attachment A to the petition is the declaration of the Manager for Transmission Design Management within SCE's Transmission Business Unit who has responsibility for the El Casco Project. Though we do not adopt SCE's proposed wording verbatim, SCE has supported its request within the context of Rule 16.4(b).

Second, Rule 16.4(d) requires that if a petition is not "filed and served within one year of the effective date of the decision proposed to be modified," the petitioner must explain the reason for the delay. SCE states that its petition could not have been filed within a year of the issuance of D.08-12-031 (i.e, within a year of December 19, 2008) given the time necessary to complete final engineering of the approved conceptual design for the project. In November, 2009, SCE apprised Commission staff that design modification would be necessary and in the following months, worked to finalize the design modification. SCE states that when the impact upon Segments 2 and 4 was identified and Commission staff advised SCE to file a petition for modification, SCE did so. SCE has justified the timing of its filing and we find that the petition is timely filed.

9. Exhibits

Utilizing the identification system adopted in D.08-12-031, we identify the following additional reference exhibits and receive them into the record of this proceeding:

- Reference Exhibit F – Draft Environmental Impact Report, issued November 30, 2011.
- Reference Exhibit G – Supplemental Final Environmental Impact Report, issued February 17, 2012.

10. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

11. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Jean Vieth is the assigned ALJ in this proceeding.

Findings of Fact

1. The Supplemental EIR (draft and final versions) for the El Casco Project conforms to the requirements of CEQA.

2. The proposed changes to Segments 2 and 4 of the approved project would have significant and unavoidable impacts on visual resources.

3. The Commission has reviewed and considered the information contained in the Supplemental Final EIR; the Commission used this information, together

with the information in the Final EIR/Final Recirculated EIR, in deciding to approve the proposed changes to the approved project.

4. The Supplemental Final EIR reflects the Commission's independent judgment and analysis.

5. The CEQA Findings of Fact in Attachment A represent the independent findings of the Commission.

6. All mitigation identified in the Supplemental Final EIR can be accomplished by extending to the modified project the MMRCP adopted for the approved project. The Supplemental Final EIR does not require any entirely new type or kind of mitigation but requires that previously identified mitigation be applied to the project modifications.

7. Since the design changes do not introduce more electrical switchgear equipment or circuit breakers, which generate the GHG sulfur hexafluoride (SF_6), proposed changes to the project create no new, or substantially more severe, climate change impacts.

8. Since the energized subtransmission line will be further above ground level, given the two major features of the proposed, changed design – taller poles at some locations, and at others, a greater number of poles, which will reduce line sag -- EMF impacts should not increase and actually may be lessened.

9. The analysis supporting the statement of overriding considerations adopted in D.08-12-031 continues to be compelling. With respect to Segments 2 and 4, however, completion of the engineering design has shown that the conceptual design approved by D.08-12-031 is infeasible and must be revised.

10. The final engineering for Segments 2 and 4, together with the mitigations identified, appropriately modify the approved project to minimize significant environmental impacts where possible.

11. Utilizing the identification system adopted in D.08-12-031, the following additional reference exhibits should be identified and received into the record of this proceeding: Reference Exhibit F – Supplemental Draft Environmental Impact Report, issued November 30, 2011; Reference Exhibit G – Supplemental Final Environmental Impact Report, issued February 17, 2012.

Conclusions of Law

1. SCE's petition complies with the requirements of Rule 16.4(b) and Rule 16.4(d) of the Commission's Rules of Practice and Procedure.
2. The Supplemental Final EIR was completed in compliance with CEQA and should be certified.
3. The CEQA Findings of Fact in Attachment A should be adopted in their entirety.
4. The proposed design modifications are consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.
5. SCE petition should be granted and the design modifications proposed for the project should be approved, subject to the mitigation measures set forth in the Supplemental Final EIR.
6. To the extent necessary, overriding considerations should be found to exist to approve the design modifications proposed for the project.
7. This order should be effective immediately.
8. A.07-02-022 should be closed.

O R D E R

IT IS ORDERED that:

1. Consistent with these Ordering Paragraphs, the Petition for Modification filed on August 29, 2011, by Southern California Edison Company (SCE) is granted and Decision 08-12-031 is modified to authorize SCE to construct the El Casco System Project (El Casco Project) in accordance with the design modifications reviewed in the Supplemental Final Environmental Impact Report (EIR) for the El Casco Project, subject to all mitigations identified in the Supplemental Final EIR.

2. The Supplemental Draft Environmental Impact Report (EIR) is received into the record of this proceeding as Reference Exhibit F and the Supplemental Final EIR is received into the record of this proceeding as Reference Exhibit G.

3. The Supplemental Final Environmental Impact Report (EIR), which modifies the Final EIR/Recirculated Final EIR, is certified pursuant to the requirements of the California Environmental Quality Act, Pub. Res. Code §§ 21000 *et seq*.

4. Attachment A, entitled "CPUC CEQA Findings of Fact" is adopted in its entirety.

5. Application 07-02-022 is closed

This order is effective today.

Dated _____, at San Francisco, California.