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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: Lakeview Substation Project.

Application 10-09-016
(Filed September 17, 2010)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, scope, and schedule of the proceeding pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules).¹ Written direct testimony shall be served by no later than May 21, 2012, written rebuttal testimony shall be served by no later than June 11, 2012, written requests for an evidentiary hearing and cross-examination time estimates shall be served by no later than June 18, 2012, and an evidentiary hearing will be held on June 25, 2012, in Perris, California, as set forth more fully in the ruling.

¹ The Commission Rules are posted on our website at www.cpuc.ca.gov.

Background and Procedural History

A. The Project

By this application, Southern California Edison Company (SCE) seeks a permit to construct the Lakeview Substation project, which includes the following major components:

- Construction of a new 115/12 kilovolt (kV) substation (Lakeview Substation). The Lakeview Substation would be an unattended, automated, low-profile substation constructed and operated on an approximately 5.4-acre site in the unincorporated Riverside County community of Lakeview;
- Installation of two new 115 kV subtransmission source line segments to connect the proposed Lakeview Substation to the existing Valley-Moval 115 kV subtransmission line. One segment would be approximately 1.8 miles in length to form the new Valley-Lakeview 115 kV subtransmission line; the other would be approximately 1.5 miles in length to form the new Lakeview-Moval 115 kV subtransmission line;
- Construction of two new underground 12 kV distribution getaways;
- Installation of telecommunications facilities at the proposed Lakeview Substation, including telecommunications cable (overhead and underground) to connect the proposed Lakeview Substation to the SCE telecommunications network, and upgrades to the telecommunications equipment at the various substations; and
- Decommissioning of two existing substations: the Nuevo Substation and the Model Pole Top Substation.

The purpose of the Lakeview substation project is to serve the current and projected demand for electricity, and enhance reliability and system-operational

flexibility, in Lakeview, Nuevo and adjacent areas in unincorporated western Riverside County.

According to the application, SCE estimates the cost of the project as approximately \$50 million in 2010 dollars.

B. Procedural History

SCE filed this application on September 17, 2010. On October 14, 2010, Ethel M. Ybarrola, Diana Spillane, and Thomas F. Ybarrola filed a protest on behalf of the Ybarrola Living Trust that owns the agricultural property on which the proposed substation would be located, on the grounds that the project, as proposed by SCE, would bisect the property. On October 27, 2010, SCE filed a reply to the protest.

On February 9, 2012, a prehearing conference (PHC) was held in Perris, California. On March 20, 2012, the Laborer's International Union of North America Local Union 1184, John Martinez, and Andrew Arechega filed a motion requesting party status in this proceeding. The assigned Administrative Law Judge (ALJ) has granted this motion.

In determining the scope of this proceeding, we have considered SCE's application, the protest, and SCE's reply to the protest, and the discussion at the PHC conducted on February 9, 2012 in Perris, California.

Scope of Issues

Pursuant to General Order 131-D,² in order to issue a permit to construct, the Commission must find that the project complies with the California

² Commission General Orders are posted on our website at www.cpuc.ca.gov.

Environmental Quality Act (CEQA).³ CEQA requires the lead agency (the Commission in this case) to conduct a review to identify environmental impacts of the project, and ways to avoid or reduce environmental damage, for consideration in the determination of whether to approve the project or project alternative. CEQA precludes the lead agency from approving a proposed project or project alternative unless it requires the project proponent to eliminate or substantially lessen all significant effects on the environment where feasible, and determines that any unavoidable remaining significant effects are acceptable due to overriding considerations.

The Commission's Energy Division, which is conducting the required environmental review under CEQA, determined that it would prepare an Environmental Impact Report (EIR) for the proposed project. An EIR is an informational document to inform the Commission, and the public in general, of the significant environmental impacts of the proposed project and the alternatives, design a recommended mitigation program to reduce any potentially significant adverse environmental impacts, and identify, from an environmental perspective, the preferred alternative. When the EIR is completed, it shall be admitted into the formal record of the proceeding.⁴ CEQA

³ CEQA is codified at Pub. Res. Code Section 21000 et seq., and the State CEQA Regulations, which implement CEQA, are codified at Title 2, Chapter 3 of the California Code of Regulations. See www.ceres.ca.gov/ceqa/.

⁴ A draft Environmental Impact Report for the project was issued in January 2012. As required by the CEQA, interested parties and the public were given the opportunity to submit written comments on the draft EIR from January 12, 2012 through March 12, 2012 (the public comment period). The Commission Energy Division also held public meetings in the local community regarding the draft EIR, which gave additional

Footnote continued on next page

requires that, prior to approving the project or a project alternative, the lead agency certify that the EIR was completed in compliance with CEQA, that it reviewed and considered the EIR prior to approving the project or a project alternative, and that the EIR reflects our independent judgment. (Pub. Res. Code § 21082.1(c)(3), CEQA Guidelines § 15090.)

In addition, pursuant to Commission General Order 131-D and Decision (D.) 06-01-042, the Commission will consider whether the project (or project alternative) design complies with the Commission's policies governing the mitigation of electromagnetic field effects using low-cost and no-cost measures.⁵

Accordingly, the Commission must determine the following issues in the proceeding:

1. What are the significant adverse environmental impacts of the proposed project?
2. Are there potentially feasible mitigation measures or project alternatives that will avoid or lessen the significant adverse environmental impacts?
3. As between the proposed project and the project alternatives identified in the EIR, which is environmentally superior?

opportunities for interested parties and members of the public to receive information about the project, ask questions, and orally comment on the draft EIR, on January 13, 2012 and February 9, 2012. The Commission Energy Division will issue a final EIR, which will include a response to comments received on the draft EIR, in the near future.

⁵ Information regarding the Commission's policy on EMFs and a link to D.06-01-042 are posted on our website at www.cpuc.ca.gov/PUC/energy/environment/electromagnetic+fields/action.htm. D.06-01-042 is also posted on our website at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/53181.htm.

4. Are the mitigation measures or project alternatives identified in the EIR infeasible? (CEQA Guidelines 15091(a)(3).)
5. To the extent that the proposed project and/or project alternatives result in significant and unavoidable adverse environmental impacts, are there overriding considerations that nevertheless merit Commission approval of the proposed project or project alternative? (CEQA Guidelines § 1509.)
6. Was the EIR completed in compliance with CEQA, did the Commission review and consider the EIR prior to approving the project or a project alternative, and does the EIR reflect our independent judgment? (CEQA Guidelines § 15090.)
7. Is the proposed project and/or project alternative designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?

The scope of this proceeding is limited to the issues stated above.

Need for Evidentiary Hearing

Issue nos. 1, 2 and 3: These issues are properly addressed in the course of the CEQA environmental review process and preparation of the EIR. Most of the issues that have been raised by the protesting and intervening parties are within the scope of the CEQA review, and should be pursued within that environmental review process. Upon completion of the EIR, Energy Division shall submit it to the ALJ for admission into the evidentiary record and review and consideration by the Commission. No evidentiary hearings or further evidence are needed on these issues.

Issue nos. 4 and 5: The Energy Division issued the draft of the EIR in January 2012.⁶ According to the draft EIR, the proposed project and several of the alternatives would have unavoidable significant adverse environmental impacts on air quality.⁷ Several of the project alternatives may also have other significant adverse environmental impacts. The draft EIR identifies either the No Project alternative or the project, as proposed by SCE, as the environmentally superior alternative.

Pursuant to CEQA Guideline § 15091, the Commission may not approve a project *other* than the environmentally superior alternative unless the mitigation measures or alternative are infeasible. Pursuant to CEQA Guidelines § 15093, if the Commission approves a project which results in significant and unavoidable environmental impacts, it must state the overriding considerations for doing so, i.e., the specific economic, legal, social, technological, or other benefits of the project that outweigh the adverse environmental impacts.

Any party to the proceeding (see Rule 1.4)⁸ may offer prepared direct testimony setting forth the specific economic, legal, social, technological or other considerations that render the project alternatives or mitigation measures

⁶ A link to the draft EIR and information regarding CEQA review of the project are posted on our website at www.cpuc.ca.gov/Environment/info/esa/lakeview/index.html.

⁷ The draft EIR also determined that the project and alternatives would also result in other significant adverse environmental impacts, but found that these impacts can be mitigated to a level of insignificance through the mitigation measures described in the draft EIR.

⁸ Persons who wish to become parties in order to participate on these issues may contact the ALJ regarding how to move for party status under Rule 1.4.

infeasible pursuant to CEQA Guidelines § 15091. Such testimony shall *not* relate to matters which will be determined in the EIR (e.g., issues no. 1, 2, 3, and 6.)

Any party may offer prepared direct testimony setting forth the specific economic, legal, social, technological, or other benefits of any alternative that may outweigh its unavoidable adverse environmental impacts.

Any party may offer prepared rebuttal testimony on either or both of these issues.

Issue no. 6: The Commission will review the EIR to determine whether it was completed in compliance with CEQA, whether it reflects our independent judgment, and whether to approve the proposed project or a project alternative. To the extent that parties or other persons seek to offer factual evidence to challenge the conduct of the CEQA process and the completion of the EIR in compliance with it, such evidence should be offered through comment on the draft EIR. No evidentiary hearings or further evidence is needed on this issue.

Issue no. 7: SCE presents its EMF compliance plan in Appendix F to the application. Any party may offer prepared direct testimony and/or prepared rebuttal testimony challenging SCE's compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures.⁹

Schedule

In the interest of securing just and speedy resolution of this proceeding, we will move forward with taking evidence on the factual issues on the basis of the draft EIR. If the final EIR materially deviates from the draft EIR such that due

⁹ The issue of the sufficiency of the Commission's adopted EMF policies is beyond the scope of the proceeding.

process requires the opportunity for parties to provide supplemental evidence, we will afford that opportunity.

The following schedule is adopted here and may be modified by the ALJ as required to promote the efficient and fair resolution of the application:

Prepared written direct testimony served	May 21, 2012
Prepared written rebuttal testimony served	June 11, 2012
Written request for an evidentiary hearing and cross-examination time estimates served (by e-mail to ALJ and service list)	No later than June 18, 2012
Evidentiary hearings (if hearing requested by any party in writing)	June 25, 2012 10:00 a.m. Eastern Municipal Water District, Board Room, 2270 Trumble Road Perris, California
Opening briefs filed	To be determined after receipt of final EIR
Reply briefs filed (proceeding submitted)	To be determined after receipt of final EIR
Proposed decision	No later than 90 days after submission
Commission decision	No earlier than 30 days after Proposed Decision mails

Parties shall serve any prepared (written) testimony on the official service list pursuant to Rule 1.9 and Rule 1.10, and shall serve two hard copies of it on the assigned ALJ.¹⁰ If the parties do not request a hearing or stipulate to the admission of written testimony without cross-examination, the ALJ may remove

¹⁰ Prepared (written) testimony is *not* filed with the Commission Docket Office, but is to be served on the service list and the assigned ALJ. Briefs are to be filed with the Commission Docket Office, as well as served on the service list and the assigned ALJ.

the evidentiary hearing from calendar and the parties may move the admission of prepared testimony by written motion pursuant to Rule 13.8(d).

The ALJ shall set the time for filing concurrent opening and reply briefs after the final EIR issues and is admitted into evidence. In any event, the proceeding should be resolved within 18 months of this scoping memo as provided by Pub. Util. Code § 1701.5.

Parties

Any person who is not yet a party to the proceeding and who wishes to participate in the proceeding by presenting or cross-examining evidence or by briefing any of the identified issues should file a motion to become a party pursuant to Rule 1.4 of the Commission's Rules of Practice and Procedure.

The ALJ may remove party status from parties who do not participate in evidentiary hearing or briefing, without prejudice to subsequent motion for party status pursuant to Rule 1.4.

Commission Public Advisor's Office/Information regarding CEQA

Persons who have questions regarding Commission procedures may contact the Commission Public Advisor's Office for Southern California by telephone at 866-849-8391 or 213-576-7055 or by e-mail addressed to public.advisor.la@cpuc.ca.gov. The Public Advisor's Office also has a webpage located at www.cpuc.ca.gov/PUC/aboutus/Divisions/CSID/Public+Advisor/, which includes helpful information, such as a Practitioner's Page. The Commission Rules are posted on our website at www.cpuc.ca.gov.

The current CEQA statutes and the State CEQA Guidelines are posted at www.ceres.ca.gov/ceqa/, a website maintained by the State Natural Resources Agency. A copy of these materials and other information regarding CEQA may

also be available at the Riverside County Law Library, located at 3989 Lemon Street, Riverside, California, which is open to all County residents.

Category of Proceeding/*Ex Parte* Requirements and Need for Hearing

This ruling confirms the Commission’s preliminary determination that this is a ratesetting proceeding, and find that hearings may be needed. (Resolution ALJ 176-3262, October 14, 2010.) Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission’s Rules.

Assignment of Proceeding

Commissioner Michel P. Florio is the assigned Commissioner and ALJ Myra J. Prestidge is the presiding officer to the proceeding.

Therefore **IT IS RULED** that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. This proceeding is categorized as ratesetting.
4. Hearings may be needed, as described above.
5. The presiding officer is Administrative Law Judge Myra J. Prestidge.

Dated May 7, 2012, at San Francisco, California.

/s/ MICHEL PETER FLORIO
Michel Peter Florio
Assigned Commissioner