

Decision \_\_\_\_\_

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

Application of Pacific Gas & Electric Company (PG&E) (U 39 E) for a Certificate of Public Convenience and Necessity Authorizing Construction of the Shiloh II 230 kV Transmission Line Project.

Application 08-05-018  
(Filed May 14, 2008)

**DECISION GRANTING PACIFIC GAS AND ELECTRIC COMPANY  
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR  
TRANSMISSION RELATED FACILITIES TO INTERCONNECT WITH AND  
RECEIVE ELECTRICITY FROM SHILOH II WIND GENERATION PROJECT**

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**DECISION GRANTING PACIFIC GAS AND ELECTRIC COMPANY  
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RECEIVE ELECTRICITY FROM SHILOH II WIND GENERATION PROJECT**

**1. Summary**

This decision grants the unopposed application of Pacific Gas and Electric Company (PG&E) for a Certificate of Public Convenience and Necessity (Certificate) pursuant to Pub. Util. Code § 1001 *et seq.* and Commission General Order (GO) 131-D. An enterprise (Shiloh Wind Partners LLC, subsequently referred to as Wind Farm Owners) is building a new wind farm, Shiloh II Wind Generation Project (Wind Farm), which is comprised of approximately 75 wind-powered generators that will produce approximately 150 megawatts of renewable energy annually. To interconnect with the Wind Farm and receive electricity generated by it, PG&E seeks authority to reconnector certain existing electric transmission lines and to construct specific new facilities (Reconductoring and New Facilities). The New Facilities will be adjacent to PG&E's existing transmission lines which will be reconducted to increase capacity. The Lead Agency for the environmental review of the Wind Farm was Solano County, which prepared a Final Environmental Impact Report (Final EIR). The Commission was a Responsible Agency.

This Certificate granted herein is for PG&E's specific Reconductoring and New Facilities as described in both Advice Letter 2879-E and the Final EIR for Wind Farm.

This proceeding is closed.

**2. Background**

PG&E is a regulated public utility that provides retail natural gas and electric service to customers in Northern California. The Commission approved

PG&E's power purchase agreement with Wind Farm Owners in Resolution E-4161. The Commission noted that renewable energy from the Wind Farm will "contribute towards the 20% renewables procurement goal required by California's RPS [Renewables Portfolio Standard] statute." (Resolution E-4161, mimeo., p. 6.) PG&E filed this application for authority to connect the Wind Farm to its electrical grid.<sup>1</sup>

### **3. Reconductoring and New Facilities**

PG&E's existing Vaca Dixon-Birds Landing 230 kilovolts (kV) Transmission Line and its Birds Landing Switching Station are located southeasterly from the Wind Farm's substation site. According to PG&E, these facilities have the capacity to take the additional electric energy. PG&E will construct and own a new transmission line up to the pull-off structure at the Wind Farm's substation. Wind Farm Owners plan to begin providing power to the grid by late December 2008. Also according to PG&E, the New Facilities must be finished prior to that date to provide power to the Wind Farm during its testing. Wind Farm Owners' funding is dependent on providing power by December 31, 2008. (Application, p. 3.)

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<sup>1</sup> Potential confusion arises regarding the term "project" in this proceeding, therefore we avoid its use in this decision. Documents in this proceeding use "project" to refer to the wind generation (Wind Farm) to be constructed by Wind Farm Owners, as well as (1) reconductoring, and (2) new transmission line related construction, both of which are to be performed by PG&E to connect and to receive power the additional wind-generated electricity. "Project" is also a generic term used in California Environmental Quality Act (CEQA) and the CEQA Guidelines. As further explained in this decision, the Reconductoring and New Facilities certificated in today's decision are **not** a "project" for purposes of CEQA.

Because the proposed Reconductoring and New facilities are subject to CEQA and the Commission must issue a discretionary decision without which PG&E cannot proceed, this Commission must act as either a Lead or a Responsible Agency under CEQA. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA guidelines Section 15051

(b)). An EIR for the Wind Farm was prepared for the Solano County Department of Resource Management (Solano County) in accordance with the CEQA, Section 21092.5 of the Public Resources Code, and Sections 15088, 15089, 15132, and 15362 of the CEQA Guidelines. Wind Farm Owners applied to Solano County for a Use Permit for Wind Farm in October 2005 and submitted revised applications in November 2005, January 2006, and March 2006. Solano County determined that an EIR was required and subsequently issued a Notice of Preparation of an EIR on February 6, 2006. Solano County issued a combined Notice of Completion and Notice of Availability of the Draft EIR for the Wind Farm on October 10, 2006. The Draft EIR was distributed through the State Clearinghouse (#SCH 2006022037) and was also sent directly to agencies, individuals, and public locations (e.g., libraries).

Solano County noted that on August 10, 2006, PG&E issued a Notice of Construction on the Reconductoring Project (Notice). That Notice was subject to a 20-day public protest period, which elapsed without public comment. Solano County concluded that the Reconductoring and New Facilities work was therefore exempted from further permitting requirements through this Commission under GO 131-D, Section III.B.1. The Notice and associated

materials are included in Section 3 of the Final EIR. The Final EIR was issued in February 2007.<sup>2</sup> PG&E's Notice was filed at the Commission in Advice Letter 2879-E, and is discussed further in this decision. Solano County approved the Wind Farm on March 20, 2008 by adopting the Final EIR pursuant to CEQA Guidelines Section 15092(b). It also adopted "CEQA Findings of Facts and Statement of Overriding Considerations." The following table shows the sequence of filings and approvals, before Solano County, and this Commission, related to the Wind Farm and Reconductoring and New Facilities.

<b>Schedule of Major Events Related to Wind Farm</b>	
<b>Event</b>	<b>Date</b>
Use Permit - application Solano County.	October 2005
Use Permit - revised application	November 2005 & January 2006 & March 2006
Notice of Preparation of EIR	February 6, 2006
Advice Letter 2879-E, filed Notice of Construction	August 10, 2006
Advice Letter 2879-E Effective	September 9, 2006
Notice of Completion Draft EIR	October 10, 2006
Final EIR	February 2007
Final EIR Amended	April 2007
Advice Letter 3143-E, filed Wind Farm Owners' Procurement Contract	October 29, 2007
Final EIR Amended	March 2008
CEQA Findings of Fact and Statement of Overriding Considerations	March 20, 2008
Resolution E-4161 Procurement Contract approval	April 10, 2008
A.08-05-018 - Certificate application	May 14, 2008

<sup>2</sup> There were two amendments, in April 2007, and March 2008.

### **3.1. Description of the Reconductoring and New Facilities**

The application describes the proposed activities and related costs:

The [Reconductoring and New Facilities] that is the subject of this [Certificate] application is a transmission line that will tie into the existing Vaca Dixon-Birds Landing 230 kV Transmission Line at PG&E's existing Birds Landing Switching Station, approximately 3.3 miles southeasterly from the [Wind Farm] electric substation site located at the "Option II" site in Solano County. (See Exhibit C [attached to the application].) The transmission line will consist of 1,431 AAC type conductor supported by approximately 35 structures (approximately 33 poles and 2 lattice structures), including 6 replacement structures, that will be approximately 80 feet to 150 feet tall. From the switching station, the gen-tie line will run in a northerly direction parallel to and approximately 60 feet westerly of PG&E's existing Vaca Dixon-Birds Landing 230 kV transmission line for approximately 3.3 miles, across land that is mostly dry pasture, to [the Wind Farm's] substation. The Vaca-Dixon 500 kV transmission line is also in this corridor. The proposed [Reconductoring and New Facilities] will be located within PG&E's existing electric transmission line easements except for three poles at Birds Landing Switching Station. State Route 12 is approximately 4,000 feet north of the [Wind Farm's] substation site, and Olsen Road is approximately 1,000 feet east of the site. The nearest residence is more than 4,000 feet from the [Wind Farm] Substation site and approximately 800 feet from the proposed transmission line, with the existing Vaca Dixon-Birds Landing 230 kV and the Vaca Dixon-Tesla 500 kV transmission lines located between the residence and the new gen-tie transmission line. (See Exhibit C.) (Application, pp. 4 - 5.)

#### **4. Requirements for a Certificate**

In order to grant this Certificate, pursuant to Pub. Util. Code § 1001,<sup>3</sup> the Commission must ensure that (1) any necessary environmental review pursuant to CEQA was performed, (2) the Reconductoring and New Facilities are necessary, and (3) all regulatory approvals have been obtained or granted herein. Also, pursuant to GO 131-D,<sup>4</sup> p. 2, the Commission must find:

... said facilities are necessary to promote the safety, health, comfort, and convenience of the public, and that they are required by the public convenience and necessity.

##### **4.1. Environmental Review**

Consideration of the Reconductoring and New Facilities is to be found in the Solano County Draft and final EIR prepared for the Wind Farm and in Advice Letter 2879-E. We examine these documents in turn.

##### **4.1.1. The Wind Farm EIR**

CEQA applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to “inform governmental decision-makers and the public about the potential, significant environmental effects of the proposed activities.” (Title 14 of the California Code of Regulations, (CEQA Guidelines) Section 15002.) CEQA requires that the Commission

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<sup>3</sup> “No ... electrical corporation ... shall begin the construction of ... plant, ... or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.”

<sup>4</sup> “Rules pertaining to planning and construction of facilities for the generation of electricity and certain electric transmission facilities.”  
(<http://162.15.7.24/PUBLISHED/Graphics/589.PDF>)

consider the environmental consequences before granting this Certificate.<sup>5</sup> As stated above, the Commission was a Responsible Agency for the Wind Farm. Thus, the Commission must consider the Lead Agency's environmental documents and findings before acting upon or approving the Reconductoring and New Facilities (CEQA Guidelines 15050(b)).

As the Lead Agency for the Wind Farm, Solano County reached the conclusion that the Wind Farm would result in certain significant unmitigated and adverse environmental impacts pursuant to CEQA. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.<sup>6</sup> Here, Solano County was the lead agency and prepared a Final EIR for the Wind Farm Owners' proposed project, Wind Farm. We will take official notice of the Final EIR for the Wind Farm pursuant to Rule 13.9.

#### **4.1.2. Environmental Impacts**

Solano County ordered the filing of a Notice of Determination with the County Clerk on March 20, 2008, and, pursuant to Public Resources Code Section 21152 and California Code of Regulations Section 15075, and concluded:

- The Wind Farm will have a significant effect on the environment;
- An environmental impact report was prepared pursuant to the provisions of CEQA;
- Mitigation measures were made a condition of the permit approval;
- A mitigation report or monitoring plan was adopted;
- A Statement of Overriding Considerations was adopted; and
- Findings were made pursuant to the provisions of CEQA.

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<sup>5</sup> CEQA Guidelines, Section 15050(b).

<sup>6</sup> *Id.*

The Commission's Energy Division independently reviewed the application by PG&E for authority to construct the Reconductoring and New facilities and reviewed the Final EIR approved by Solano County. The Energy Division concluded that the Final EIR approved by Solano County was prepared in accordance with CEQA and is adequate for the Commission's decision-making purposes as a Responsible Agency pursuant to CEQA. The Final EIR incorporates the Draft EIR<sup>7</sup> as an integral part of the final certified environmental review. The Draft EIR included the following description of PG&E's activity related to the Wind Farm:

PG&E evaluated the proposed ... [Wind Farm], proposed Montezuma Wind project, and other energy projects for impacts on its transmission system and determined that receiving additional power from the wind plant and other anticipated energy projects will require reconductoring an approximately 11-mile segment of the Vaca Dixon-Contra Costa 230 kV transmission line to accommodate increased capacity, referred to as the Reconductoring Project. The ... [Wind Farm] would be able to operate without the completion of the Reconductoring Project, but the Reconductoring Project is required to accept the generation of [Wind Farm] and other anticipated energy projects once they are at all full capacity. The Reconductoring Project begins in Solano County at PG&E's Birds Landing switchyard (which was built to facilitate the [earlier and separate] Shiloh I Project), traverses Solano, Sacramento, and Contra Costa Counties, and goes to the Contra Costa Substation and to the Contra Costa power plant switchyard (see Figure 1.0-1). The Reconductoring Project involves replacing two of the existing electric cable or conductor circuits on the existing PG&E towers with a heavier duty conductor that would increase the capacity of the line. Both circuits extend from the Birds Landing switchyard to the

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<sup>7</sup> The Draft and Final EIR for Wind Farm are available from the Solano County web site. <http://www.solanocounty.com/FileDownloads/Downloads.asp?NavID=1438>

Contra Costa substation and Contra Costa power plant switchyard. A detailed description of the reconductoring component of this Reconductoring Project is provided below in Section 3.11. The Reconductoring Project also includes impact avoidance and minimization measures that are part of the Project description and Project design, as described in Section 3.12.4.

This Draft EIR analyzes the potential impacts of the [Wind Farm] as well as the Reconductoring Project as it relates to the construction and operation of the [Wind Farm] pursuant to the California Environmental Quality Act (CEQA). However, the Reconductoring Project is not part of the [Wind Farm's] request for a Use Permit from Solano County. Transmission line projects are regulated by the CPUC, and PG&E must therefore comply with CPUC General Order No. 131-D, which contains the permitting requirements for the construction, maintenance, or replacement of transmission and powerline facilities. The Reconductoring Project has now been determined to be exempt from CPUC permitting requirements under Section III.B.1 of General Order 131-D. Portions of the reconductoring are also outside of Solano County, where the County has no permit jurisdiction. As the lead agency for CEQA review, Solano County will coordinate with the CPUC regarding requirements for transmission line facilities, as necessary. PG&E will obtain permits for reconductoring from other federal or state agencies, including those outside of Solano County, as needed. (Draft EIR § 3 Project Description, at § 3.1.2 Reconductoring Project, p. 3-5.)<sup>8</sup>

The Final EIR provides a detailed description of the proposed transmission facilities and the potential environmental impacts, with a primary focus on avian impacts. It states in relevant part:

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<sup>8</sup> The Draft EIR is incorporated into the Final EIR and therefore unchanged text from the Draft IER is not duplicated in the Final EIR.

... the CPUC, during the CEQA process for the 3-mile transmission line, may consider the impacts to raptors due to installation of the line and PG&E's conclusion above and determine whether other design measures are warranted to ensure that impacts on birds during operation of the new 3-mile transmission line would not be significant. PG&E has indicated that they do not anticipate the CPUC would require avian or bird diverters along this existing corridor. (Final EIR, mimeo., p. 3-11.)

The Final EIR continues:

PG&E conducted a field and literature review of the area and discussed the history of bird usage in the area with biologists. PG&E found that the vicinity of the proposed new line is not located in a major avian flight path because there is no large body of water nearby, no topographic feature that would funnel bird flight toward the line, no concentrated food sources that would induce significant local movement by birds. Therefore, PG&E concluded that the addition of a new overhead transmission line immediately adjacent to the existing 230 kV and 500 kV overhead transmission lines would not cause additional bird collision hazard. Nor does PG&E believe the already existing lines themselves cause a significant collision hazard. There are no bird diverters or other mechanisms to reduce collisions on any of the existing PG&E lines in this corridor. (Final EIR, mimeo., p. 3-10.)

#### **4.1.3. Overriding Consideration**

The Wind Farm Draft EIR and subsequent Final EIR identified a number of potentially significant environmental impacts. Some of these impacts will be fully avoided through the adoption of feasible mitigation measures. Solano County adopted Conditions of Approval for Land Use Permit No. U-050025 which specified mitigation measures for the Wind Farm. With the incorporated mitigation, certain environmental impacts associated with the Wind Farm remain significant and unavoidable. In considering the Draft EIR and Final EIR for the project, Solano County made findings for specific resource areas.

The Final EIR found that the Wind Farm will result in significant environmental effects with respect to the following issues or resources that can be reduced to less than significant levels and/or avoided with the implementation of adopted mitigation measures:

- Agricultural Resources
- Cultural Resources
- Geology Resources
- Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Public Services
- Safety and Transportation

The Final EIR also found that certain unavoidable adverse significant impacts with no effective mitigation will occur with respect to:

Aesthetics/Visual  
Air Quality  
Biological Resources

After first mitigating those impacts which could be mitigated, Solano County adopted a Statement of Overriding Considerations for the unavoidable adverse significant impacts of the Wind Farm that could not be mitigated. In its findings, Solano County balanced the benefits against the unavoidable adverse environmental impacts and determined that the benefits of the Wind Farm outweighed the unavoidable adverse environmental impacts. Therefore, for the purposes of approving the Reconductoring and New Facilities, we adopt the county's mitigation and monitoring plan applicable to all potentially significant impacts that could be mitigated, and the Statement of Overriding Considerations applicable to the significant, but unavoidable, adverse environmental impacts.

The Commission's GO 131-D generally defines the required CEQA process for a Certificate in Section IX.A. PG&E included in the application (pp. 7-11) a description of its compliance with § IX.A including the various sub-paragraphs. The final requirement in § IX.A requires a proponent's environmental assessment (PEA) or other compliance with CEQA. PG&E submits that the Final EIR for the entire Wind Farm project complies with CEQA because the transmission portion of the whole project was studied as a part of a larger project subject to CEQA review. Thus, we find the Commission may rely on the Final EIR and may grant discretionary authority for a Certificate if PG&E satisfies all of the Commission's criteria in GO 131-D, below.

#### 4.1.4. Advice Letter 2879-E

PG&E's Advice Letter 2879-E, among other things, sought an exemption from the requirements to obtain a Permit to Construct.<sup>9</sup> The exemption would apply to facilities to connect specific wind-generated power (including the Wind Farm) with PG&E's system:

In order to accommodate additional wind-generated power including two new wind energy facilities – [Wind Farm] and Montezuma Wind – in the Montezuma Hills, Solano County, [PG&E] plans to perform upgrades to its facilities necessary to connect the projects to its electrical system. This will require reconductoring (replacing electric wires) on PG&E Co.'s 230 kilovolt (kV), double-circuit tower line between the Montezuma Hills in Solano County and the Contra Costa Substation in the City of Antioch and the Contra Costa Power Plant Switchyard in Contra Costa County. The electric line to be reconducted is approximately 11 miles long. Its northerly terminus is located at the Birds Landing Switchyard in the Montezuma Hills, Solano County, where approximately 6 new support structures will be added just outside of the switchyard in order to connect circuits into the switchyard. From the Birds Landing Switchyard, the line runs southeasterly across the Montezuma Hills, crosses the Sacramento River onto the western end of Sherman Island in Sacramento County. On Sherman Island, the line turns southerly, continues across Sherman Island and crosses the San Joaquin River into Contra Costa County and the City of Antioch. One end of the line terminates at the Contra Costa Substation located north of Highway 4 and east of Hillcrest Avenue in the City of Antioch. The

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<sup>9</sup> "No electric public utility shall begin construction in this state of any electric power line facilities or substations which are designed for immediate or eventual operation at any voltage between 50 kV or 200 kV or new or upgraded substations with high side voltage exceeding 50 kV without this Commission's having first authorized the construction of said facilities by issuance of a permit to construct ..." (GO 131-D, Section III B.)

easterly circuit of the line splits from the westerly circuit at an existing tower located near Trembath Lane in Contra Costa County near the City of Antioch, and runs easterly and northerly approximately 1-1/3 miles, terminating at the Contra Costa Power Plant Switchyard located north of Wilbur Avenue and west of Highway 160. One tower located in an agricultural field in Contra Costa County near the City of Antioch, southwest of Jasmine Court, will be raised up to approximately 15 feet to maintain proper wire to ground clearance. While other minor tower modifications will not require raises, it is possible (depending upon final engineering) that the four towers at the river crossings may need to be raised approximately 25 feet to maintain proper clearance above the water. The project has been designed to avoid impacts to listed species, and seasonal restrictions have been incorporated into the construction schedule. Construction activities are scheduled to begin in January, 2007, or as soon as possible thereafter, and project completion is scheduled for late March, 2008, or as soon as possible thereafter. (Advice Letter 2879-E, Attachment 1, Notice of Proposed Construction.)

PG&E also requested in Advice Letter 2879-E that the Reconductoring and New Facilities be exempt from an Electric and Magnetic Forces (EMF) mitigation “[b]ecause there are no EMF mitigation measures available on this project that would meet the CPUC’s benchmark of 4% or less of the total project, no ‘no cost’ or ‘low cost’ measures will be employed.”

CEQA does not define or adopt any standards to address the potential health risk impacts of possible exposure to EMF, primarily because of the lack of scientific evidence of such risk. The Commission also has examined EMF impacts in several previous proceedings. We have found the scientific evidence of possible health effects was uncertain and therefore have not adopted specific limits regarding exposure to EMF.

However, recognizing that public concern remains, we do require, in GO 131-D, that all applications for a Certificate must include a description of the

measures taken or proposed by the utility to reduce the potential for exposure to EMF generated by the proposed project. We developed an interim policy that requires utilities, among other things, to identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce the potential impacts of EMF.<sup>10</sup> The benchmark established for low-cost measures is 4% of the total budgeted project cost that result in an EMF reduction of at least a 15% (as measured at the edge of the utility right-of-way).

The Commission provides a specific exemption to these requirements in the “EMF Design guidelines for Electrical Facilities – California EMF Policy.”<sup>11</sup> (Attached as Exhibit G to the Application.) Specifically:

Projects located exclusively adjacent to undeveloped land – including land under the jurisdiction of the National Park Service, the State Department of parks and Recreation, U.S. Forest Service, or Bureau of Land Management (BLM).

PG&E asserts that this exemption applies to the Reconductoring and New Facilities. We find, based on the detailed description of the Final EIR, and the approval of Advice Letter 2879-E discussed above, that this Reconductoring and New Facilities meets the requirement for this exemption.

Advice Letter 2879-E became effective (i.e., approved) September 9, 2006, 30 days after filing. Solano County appears to have relied on the effective advice letter in its Draft and Final EIR, as discussed and quoted above. A review of the

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<sup>10</sup> See D.06-01-042, and D.93-11-013 for the Commission’s policies on EMF.

<sup>11</sup> See the full text as posted on the Commission’s internet site:

<http://www.cpuc.ca.gov/PUC/energy/electric/Environment/ElectroMagnetic+Fields/>

general description of the project in Advice Letter 1879-E and the Final EIR appear to be substantially similar.

#### **4.2. Need Determination**

PG&E asserts that consistent with the Commission's policy in Decision (D.) 06-10-048, if a project is needed to interconnect generation and the developer is paying the costs associated with the transmission line, then need, cost-effectiveness, and ratepayer impact of the project are not at issue when granting a Certificate. (Application, pp. 3-4.)

The Commission has already approved the purchase of renewable energy from Wind Farm Owners in Resolution E-4161, and because the proposed Reconductoring and New Facilities is a necessary part, the need for the Reconductoring and New Facilities has therefore been established. The construction of the Reconductoring and New Facilities will cause no further financial impact on PG&E's ratepayers because its cost, including the construction, operation, and maintenance charges, will be paid by Wind Farm Owners. We will approve this application with the condition that PG&E shall not pass on to its ratepayers any costs, risks, or liabilities associated with the Reconductoring and New Facilities for the Wind Farm. We imposed a similar condition when we approved another recent transmission project, for the Russell City Energy Center, LLC, where approval was conditioned on ratepayers bearing no obligation or risk for the project.<sup>12</sup> (See Ordering Paragraph 1, D.08-03-007, p. 15.)

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<sup>12</sup> See also D.93-10-039, where the Commission found PG&E's shareholders, and not ratepayers, would bear all financial risk for still another earlier similar transmission

*Footnote continued on next page*

### **4.3. Regulatory Approvals**

PG&E asserts that no additional regulatory permits or approvals are required for this Reconductoring and New Facilities other than the Final EIR from Solano County and the Certificate from this Commission. No one disputes this assertion.

### **4.4. Conclusion**

Based on the Final EIR, prepared by Solano County for the Wind Farm, and the mitigation measures identified therein and incorporated into Wind Farm, the county found that the Wind Farm as approved will have a significant impact on the environment and it permitted the project based on its Statement of Overriding Considerations. We have reviewed the subject application and considered (1) all of the above requirements; (2) our prior approval of PG&E's Advice Letter 2879-E, for a GO 131-D exemption; and (3) our prior approval in Resolution E-4161 of the purchase power agreement with Wind Farm Owners. We therefore find the present application is complete and in compliance with Pub. Util. Code § 1001 and GO 131-D.

We conclude that granting this Certificate is in the public interest and the application should be approved as set forth below.

## **5. Categorization**

In Resolution ALJ 176-3214, dated April May 29, 2008, we preliminarily determined that this proceeding should be categorized as ratesetting, and that a hearing was not necessary. Based on the record in this proceeding, these determinations are confirmed.

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project. Thus, it is a long-standing policy that ratepayers bear no risk for projects like

*Footnote continued on next page*

**6. Waiver of Comment Period**

No protests were filed to the subject application and no hearing was held. Today's decision: (1) grants the relief requested; and (2) satisfies the Commission's obligations under the CEQA process. Accordingly, pursuant to Rule 14.6(c)(2) and Rule 14.6(c)(8), the otherwise applicable 30-day period for public review and comment is being waived.

**7. Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and Douglas M. Long is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. PG&E's application for a Certificate conforms to Pub. Util. Code § 1001 and GO 131-D.
2. The Commission previously approved PG&E's Advice Letter 3143-E which was a purchased power agreement with Wind Farm Owners for electricity generated by the Wind Farm.
3. The Commission previously determined in its approval of Advice Letter 3143-E that Wind Farm owners will bear all costs, risks and liability for the Reconductoring and New Facilities, and no costs, risks and liability will be borne by ratepayers.
4. The Commission previously approved PG&E's Advice Letter 2879-E finding PG&E's Reconductoring and New Facilities for the Wind Farm to be exempt from GO 131-D, Section III.A.
5. This application was not protested.

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the current Reconductoring and New Facilities.

6. This proceeding does not require a hearing.
7. Solano County was the Lead Agency for the Wind Farm pursuant to CEQA.
8. The Commission was a Responsible Agency pursuant to CEQA.
9. The Final EIR concluded that there would be significant impacts resulting from PG&E's construction of Reconductoring and New Facilities.
10. Solano County adopted Conditions of Approval for Land Use Permit No. U-050025 which specified mitigation measures for the Wind Farm. Mitigation measures were required as part of the Conditions of Approval.
11. The Conditions of Approval developed by Solano County addressed the following CEQA resource areas: Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology Resources, Hazardous Materials, Hydrology and Water Quality, Land Use, Noise, Public Services, Safety and Transportation.
12. The final EIR determined that certain impacts to Aesthetics/Visual, Air Quality, and Biological Resources are unavoidable and significant adverse environmental impacts.
13. Solano County approved the Wind Farm on March 20, 2008; approved the Final EIR pursuant to CEQA Guidelines Section 15092(b); and specified mitigation measures for the Wind Farm.
14. Solano County adopted a Statement of Overriding Considerations for the unavoidable impacts to the Wind Farm on March 20, 2008 determining that the benefits outweigh the adverse environmental impacts.
15. The Commission's Energy Division reviewed the Draft and Final EIR.
16. The Final EIR for the Wind Farm as prepared by Solano County conforms to the requirements of CEQA.

17. The Wind Farm sponsors, Wind Farm Owners, will bear all costs of the project.

18. The Reconductoring and New Facilities are exempt from including no-cost and low-cost measures (within the meaning of D.93-11-013, and D.06-01-042) to reduce possible exposure to EMF.

19. PG&E has easement rights to the property on which the Reconductoring and New Facilities will be constructed.

### **Conclusions of Law**

1. The Reconductoring and New Facilities are necessary to promote the safety, health, comfort, and convenience of the public, and that it is required by the public convenience and necessity.

2. No protests were filed to the subject application and evidentiary hearings are not necessary.

3. The Commission was a Responsible Agency for compliance with the provisions of CEQA for the Wind Farm.

4. A Final EIR prepared by Solano County for the Wind Farm was processed in compliance with CEQA, and the Final EIR is adequate for this Commission's decision-making purposes.

5. The Commission has considered the Final EIR in its decision making process in accordance with the CEQA Guidelines Section 15096(f).

6. The Commission adopts Solano County's mitigation measures for the Wind Farm.

7. The Commission adopts Solano County's Statement of Overriding Considerations which balanced the benefits of the Wind Farm with its unavoidable adverse environmental impacts.

8. There is no need to consider the cost-effectiveness of the proposed Reconductoring and New Facilities because PG&E's ratepayers will not bear any of the costs.

9. The exposure to EMF has not been reduced by the no-cost and low-cost measures PG&E included in the Reconductoring and New Facilities (pursuant to D.93-11-013, and D.06-01-042) because the Reconductoring and New Facilities are exempt by the prior approval of Advice Letter 2879-E.

10. PG&E has all necessary easement rights, or other legal authority, to the Reconductoring and New Facilities site prior to commencing construction.

11. PG&E's application for a Certificate for the specific Reconductoring and New Facilities, as included in the Final EIR for Wind Farm and Advice Letter 2879-E, should be approved.

12. The requirement for a 30-day period for public review and comment may be waived, pursuant to Rule 14.6(c) (2), and Rule 14.6(c)(8).

13. A.08-05-018 should be closed.

14. This order should be effective immediately.

## **O R D E R**

### **IT IS ORDERED** that:

1. Pacific Gas and Electric Company (PG&E) is granted a Certificate of Public Convenience and Necessity pursuant to Pub. Util. Code § 1001 to construct the Shiloh II 230 kilovolts (kV) transmission line (Reconductoring and New Facilities) to be built in Solano County, California, on an existing distribution line right-of-way, the specific Reconductoring and New Facilities as described in both Advice Letter 2879-E and the Final Environmental Impact Report for Shiloh II Wind Generation Project (Wind Farm) owned by Shiloh II Wind Partners LLC

(Wind Farm Owners);subject to the mitigation measures as set forth by the Solano County in the Final Environmental Impact Report..

2. PG&E shall not recover from its ratepayers, either directly or indirectly, any costs for the Reconductoring and New Facilities, including any costs of construction, ownership, operation, or maintenance. Nor shall PG&E pass on to its ratepayers, either directly or indirectly, any risks or liabilities associated with the Reconductoring and New Facilities.

3. The comment period for today's decision is waived.
4. Application 08-05-018 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.