

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



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In the Matter of the Application of San Diego
Gas & Electric Company (U 902-E) for a
Permit to Construct Electric Facilities:
Cleveland National Forest Power Line
Replacement Projects

Application 12-10-009
(Filed October 17, 2012)

**PROTEST BY THE DIVISION OF RATEPAYER ADVOCATES OF
THE SAN DIEGO GAS AND ELECTRIC COMPANY'S
APPLICATION FOR A PERMIT TO CONSTRUCT THE
CLEVELAND NATIONAL FOREST POWER LINE
REPLACEMENT PROJECTS**

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November 26, 2012

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I. INTRODUCTION

In accordance with General Order (G.O.) 131-D, section XII and Rule 2.6, subdivision (a),¹ the Division of Ratepayer Advocates (DRA) protests the Application of the San Diego Gas and Electric Company (SDG&E) for a Permit To Construct (PTC) the Cleveland National Forest Power Line Replacement Projects (CNF Projects).² This Protest is timely filed and served within the period of protest, which as the Application at page 10 states, began on October 27, 2012 and ends on November 26, 2012.³

As explained below, the Application does not justify the nearly one-half billion dollars costs of the CNF Projects as reasonable, consistent with the law, or in the public

¹ The term “Rule” means a regulatory provision of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, unless otherwise stated.

² The term “Application” or “A.12-10-009” means the SDG&E Application filed on Oct. 17, 2012 as captioned above, unless otherwise stated.

³ In a voicemail from Allen K. Trial to Cleveland W. Lee received on November 19, 2012, SDG&E confirmed that notice of A.12-10-009 was mailed on October 27, 2012, in accordance with G.O. 131-D, sec. XI(A).

interest. DRA recommends that instead of approving *ex parte* A.12-10-009, the Commission should hold public hearings to develop a full and complete record of the law and facts, which would include (but not limited to) the grounds for this Protest as stated below.⁴

II. BACKGROUND

Generally, the CNF Projects consist of reconstructing five existing 69 kilovolt (kV) power lines and six existing 12 kV distribution lines located within and outside of the U.S. Department of Agriculture, Forest Service (FS) administered lands in the Cleveland National Forest (CNF).⁵ Specifically, the CNF Projects involve replacing 1,384 of 69 kV power line poles and 720 of 12 kV distribution line poles with weathered-steel poles at an approximately one-to-one ratio; fire hardening activities along the five existing 69 kV power lines and six existing 12 kV distribution lines; single- to double-circuit conversion for two of the five 69 kV power lines; removal of portions of two 12 kV distribution lines; and undergrounding of portions of three 12 kV distribution lines and one 69 kV power line.⁶

SDG&E claims *inter alia* that the CNF Projects are required to meet the fire safety requirements of G.O. 95.⁷ Further, they would meet the reliability requirements of the California Independent System Operator (CAISO) Tariff provisions⁸; the North American Electric Reliability Corporation (NERC); and Federal Energy Regulatory

⁴ DRA reserves the right to amend, supplement, or otherwise change the issues of law or fact to be presented at the hearing, contingent on its discovery prior thereto.

⁵ SDG&E Appl. vol. I at 4 (The CNF consists of more than 567,000 acres located in the central portion of San Diego County, California.).

⁶ *Id.* at 6 and SDG&E Appl. vol. II (Plan of Design (POD)) at 16; 23 tbl.1; and 24 tbl.2.

⁷ SDG&E Appl. vol. II POD at 6. (According to SDG&E, G.O. 95 requires corrective actions for variable (non-immediate high to low) safety and/or reliability risks (e.g., High Risk Fire Areas).).

⁸ *Id.* at 6–7 (CAISO Tariffs require operation and maintenance of facilities to avoid adverse impacts on the CAISO-Controlled Grid.).

Commission (FERC) Standards of Conduct for Transmission Providers (Order No. 717).⁹

The Application, however, does not specifically describe the fire safety or reliability problems and the related State or Federal regulatory provisions that necessitate the CNF Projects. Further, it is unexplained why and how the current State and Federal fire requirements fail to address any purported safety and reliability problems and thus justify the need for the CNF Projects.¹⁰

III. DISCUSSION

A. **SDG&E has failed to show that CNF Projects would not burden the ratepayers.**

Rule 3.1, subdivision (h) requires SDG&E to include a “statement of the proposed rates to be charged for service to be rendered by means of such construction.” The Application did not comply with this Rule, because “SDG&E is not proposing to increase rates as a result of these [CNF] Projects.”¹¹ SDG&E may seek to increase rates, however, if after the CNF Projects become operational, FERC were to deny recovery of the CNF Projects under FERC rules and regulations, as follows:

When the projects are placed in service, SDG&E will seek to recover the costs through the CAISO’s FERC-jurisdictional rates. This would occur as part of a FERC rate case covering the test period in which the projects will become operative. Costs not approved by FERC for recovery in general transmission rates may be recovered through CPUC-jurisdictional retail rates.¹²

DRA finds that most if not all of the \$418.5 million estimated cost for the CNF Projects would fall on SDG&E ratepayers. A Participating Transmission Owner’s (PTO) recovery of costs for facilities turned over to the ISO Operational Control begins with its

⁹*Id.* (FERC Order 717 defines reliability requirements for planning and operating electric systems in North America to ensure electric systems operate reliably.).

¹⁰ See SDG&E Appl. vol. I at 2–6 and vol. II at 33–35 (no specific exigencies described requiring the CNF Projects).

¹¹ SDG&E Appl. vol. I at 18.

¹² *Id.* at 19.

FERC-approved Transmission Revenue Requirement (TRR).¹³ The TRR is recovered through a combination of the ISO's Transmission Access Charge (TAC) or Wheeling Access Charge (WAC). The TAC is a charge paid by entities serving load on the transmission and distribution systems of the PTOs under the ISO's Operational Control. The TAC includes the High Voltage Access Charge (HVAC) for facilities at 200kV or above; the Transition Charge; and the Low Voltage Access Charge (LVAC) for facilities below 200kV.¹⁴ Because the CNF Projects involve 69 kV transmission lines and 12 kV distribution lines, which do not constitute HVACs, and SDG&E is the PTO serving the load on these lines, most if not all of the \$418.5 million estimated cost for the CNF Projects would fall on SDG&E ratepayers.

Accordingly, DRA respectfully urges the Commission to hold public hearings in this matter. DRA recommends that at the hearing, the Commission should order SDG&E to show the impact of the CNF Projects on ratepayers in accordance with Rule 3.1(h), because of the high probability that the CNF Projects' costs are not recoverable under FERC. DRA finds that assuming no changes to the Projects' scope and costs, such as overruns, the CNF Projects would raise SDG&E's rates by 1% to 2% over current levels.¹⁵

¹³ See CAISO Business Practice Manual for The Transmission Planning Process at 60–61 (dated Aug. 10, 2012), available at <https://bpm.caiso.com/bpm/bpm/version/00000000000179/>; and CAISO Fifth Replacement Tariffs, App. F (dated Nov 5, 2012), available at http://www.caiso.com/Documents/TariffAppendicesC-F_Nov5_2012.pdf.

¹⁴ See CAISO Fifth Replacement Tariffs, sec. 26 (dated Nov. 5, 2012), available at http://www.caiso.com/Documents/TariffSections25-35_Nov5_2012.pdf; CAISO Fifth Replacement Tariffs, App. A, "High Voltage Transmission Facility" (unpaginated) (dated Nov. 5, 2012), available at http://www.caiso.com/Documents/TariffAppendixA_Nov5_2012.pdf; and CAISO Business Manual, *supra* n.13.

¹⁵ DRA's estimated rate impact of the CNF Projects is based on the rate impact of comparable costs for SDG&E's proposed South Orange County Reliability Enhancement Project in A.12-05-020.

B. The Application fails to justify as reasonable spending \$418.5 million, the CNF Projects' costs, for fire safety in the CNF.

The Application claims *inter alia* that the CNF Projects are needed to increase fire safety requirements by G.O. 95.¹⁶ First, however, it fails to state specifically what fire threats the existing the 69 kV power lines and 12 kV distribution line and related facilities pose in the CNF that necessitate the CNF Projects. Second, it does not show that current State, Federal, and SDG&E's own fire risk mitigation measures fail to address these problems and thus require the CNF Projects.

Third, the Application does not identify and explain what particular elements of applicable State and Federal regulatory requirements require the CNF Projects. For example, the Application does not identify the particular G.O. 95 provision that requires replacing over two thousand existing wood poles with weathered-steel poles at a one-to-one ratio at a cost of nearly a half-billion dollars.¹⁷

Statistics from the U.S. Department of Agriculture, Forest Service, *Environmental Assessment for San Diego Gas & Electric Master Special Use Permit for Cleveland National Forest, Orange and San Diego Counties, California* (FSEA) (dated March 2009), show a total of 1,626 fires on USFS lands within the CNF from 1970 to 2007. Only 29 (or 1.8%) of the 1,626 fires recorded are power-line related fires.¹⁸

Specifically, the Witch, Guejito, and Rice fires of 2007 were caused by high winds and power lines contacting vegetation, as follows:

Key findings indicate that winds in the vicinity of the fire area peaked at velocities approaching 50 miles per hour (MPH). In each case the fires started when the lines came in contact with each other, vegetation, or other wires, causing sparks that ignited dry vegetation. The Witch Fire was associated with a

¹⁶ SDG&E Appl. vol. I at 4.

¹⁷ See SDG&E Appl. vol. I at 4–5 (“Construction Objectives”).

¹⁸ See FSEA at 10 tbl.2, available on file from DRA as part of SDG&E Nov. 16, 2012 Rev. Data Resp.

69 kV line, and the Guejito and Rice fires were associated with 12 kV lines.¹⁹

In 2008, at the time of the Witch and Rice Fires, the Commission's Consumer Protection Safety Division (CPSD) found that SDG&E had failed to comply with GO 95 fire safety measures.²⁰

The Forest Service special use permits require permittees to comply with all applicable laws; keep right of way (ROW) clear of vegetation that may cause fires; and prepare a Fire Control Plan. It has also adopted the power line clearing requirements established by CalFire. SDG&E has its own system-wide Fire Preparedness Program which incorporates the Forest Service measures, such as increasing spacing between conductors and using heavier wire.²¹ SDG&E has failed to show that the safety and fire risk mitigation measures of the Commission, CalFire, the Forest Service, and its own initiatives are so inadequate that the CNF Projects are necessary.

Thus, a public hearing is called for, because the Application has failed to justify as reasonable the CNF Projects. Less costly and equally as effective alternatives than the CNF Projects are available and already required by State and Federal administrative agencies. SDG&E should implement fully and completely these more cost-effective options before burdening the ratepayers with half-a-billion dollars of costs.

C. SDGE fails to justify as reasonable spending \$418.5 million for reliability problems in its CNF transmission or distribution lines.

First, the Application does not specifically and factually state the nature of the electric transmission or distribution reliability problems that necessitate the CNF Projects. Second, it does not identify the particular component of the CAISO Tariffs, FERC Standards of Conduct, and/or NERC Reliability Standards that call for the CNF Projects as a result of these problems.

¹⁹ *Id.* at 11.

²⁰ Petn.07-11-007, *CPSD Report of the Consumer Protection and Safety Division Regarding the Guejito, Witch and Rice Fires* at 2 (dated Sept. 2, 2008), available at <http://docs.cpuc.ca.gov/published/Graphics/87470.PDF/>.

For example, the \$418.5 million costs of the CNF Projects rank higher than the estimated cost for over 95% of projects that the CAISO deems necessary to improve reliability and efficiency. According to its 2011-2012 ISO Transmission Plan (ITP) (dated March 23, 2012), only 9 of the 134 (6.7%) transmission projects approved by the CAISO have estimated cost above \$50 million.²² In addition, only 2 of the 30 (6.7%) transmission projects submitted through the 2011 Request Window seeking CAISO approval have estimated cost above \$50 million.²³

At a public hearing, SDG&E would have to prove more specifically than so far presented the reliability problems that actually exist in its electric CNF lines; that no other more cost-effective alternatives to the CNF Projects are available; and the benefits of the CNF Projects to ratepayers are commensurate with its costs. While in principle improving reliability in electrical transmission and distribution lines is a commendable public goal, it does not suffice in this specific instance for burdening the ratepayers with exorbitant costs.

IV. CONCLUSION

DRA does not recommend approving *ex parte* the Application, because the CNF Projects are not justified as reasonable, consistent with the law, and in the public interest. Therefore, the Commission needs to hold hearings and develop a full and complete record of the facts and the law regarding the need for the CNF Projects.

(continued from previous page)

²¹ FSEA at 11.

²² See ITP at 419–425, available at <http://www.caiso.com/Documents/Board-approvedISO2011-2012-TransmissionPlan.pdf> (CAISO conducts an ITP each year to identify potential system limitations as well as opportunities for system reinforcement that improve reliability and efficiency.).

²³ *Id.* at 426–428.

Respectfully submitted,

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