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

Application of Pacific Gas and Electric Company (U39E) for a Certificate of Public Convenience and Necessity Authorizing the Construction of the Embarcadero-Potrero 230 kV Transmission Project.

Application12-12-004  
(Filed December 11, 2012)

**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. Pacific Gas and Electric Company shall serve direct testimony by September 9, 2013, intervenor testimony shall be served by October 21, 2013, rebuttal testimony shall be served by November 4, 2013, and evidentiary hearing is set for November 13 and 14, 2013, at 9:00 a.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

**1. Background**

By this application, Pacific Gas & Electric Company (PG&E) seeks a certificate of public convenience and necessity authorizing the construction of the Embarcadero-Potrero 230 kV transmission project.

In determining the scope of this proceeding, we have considered PG&E's application, the protest and response to the application, PG&E's reply to the protest, and the discussion at the prehearing conference conducted on August 21, 2013.

## **2. Scope of Issues**

Pursuant to Pub. Util. Code § 1001 et seq., PG&E may not proceed with its proposed project absent certification by the Commission that the present or future public convenience and necessity require it, and the Commission shall determine the maximum cost of the approved project. As a basis for granting such certification, the Commission must consider community values, recreational and park areas, historical and aesthetic values, and the influence on the environment. (Pub. Util. Code § 1002(a).) Pursuant to General Order (GO)131-D, the review process established by the California Environmental Quality Act (CEQA) is the primary focus for this review. 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 a project alternative.

The Commission's Energy Division, which is conducting the required environmental review, issued a draft Mitigated Negative Declaration (MND) for the proposed project on August 13, 2013. An MND is a written statement prepared for a proposed project when the initial study has identified potentially significant effects on the environment, but revisions to the proposed plan and agreed to by the applicant would avoid or mitigate those effects to less than significant. CEQA requires that, prior to approving the project or a project alternative, the lead agency certify that the MND was completed in compliance with CEQA, that it reviewed and considered the MND prior to approving the proposed project.

In addition, pursuant to GO 131-D and Decision (D.) 06-01-042, the Commission will consider whether the project (or project alternative) design is in

compliance with the Commission's policies governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures.

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

1. Is there a need for the proposed project?
2. Is there no substantial evidence that the proposed project will have a significant effect on the environment?
3. Was the MND completed in compliance with CEQA, did the Commission review and consider the MND prior to approving the project or a project alternative, and does the MND reflect our independent judgment?
4. Is the proposed project designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?
5. What is the maximum cost of the approved project?

### **3. Need for Evidentiary Hearing**

Issue no. 1: Any party may offer evidence on this issue.

Issue no. 2: This issue is properly addressed in the course of the CEQA environmental review process and preparation of the MND. Any person who wishes to present evidence on these issues must do so through comment on the draft MND. The final MND will attach and respond to such comments. Upon completion of the MND, Energy Division shall submit it to the Administrative Law Judge (ALJ) for admission into the evidentiary record and review and consideration by the Commission. No evidentiary hearings or further evidence is needed on this issue. For more information and instructions on how to comment:

<http://www.cpuc.ca.gov/Environment/info/asp/en/embarc-potrero/embarc-potrero.htm>

Issue no. 3: The Commission will review the MND to determine whether it was completed in compliance with CEQA, whether it reflects our independent judgment, and whether to approve the proposed project or 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 MND in compliance with it, such evidence should be offered through comment on the draft MND. No evidentiary hearings or further evidence is needed on this issue.

Issue no. 4: PG&E presents its Preliminary Transmission EMF Management Plan and Substation Checklist as Appendix D to the application. Any party may offer evidence on this issue.

Issue no. 5: Any party may offer evidence on this issue.

#### 4. Schedule

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:

PG&E testimony served	September 9, 2013
Intervenor testimony served	October 21, 2013
Rebuttal testimony served	October 21, 2013
Evidentiary hearings	9:00 a.m. November 13 and 14, 2013 Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, California
Concurrent opening briefs filed	To be determined
Concurrent reply briefs filed[submission]	To be determined
Proposed decision	[no later than 90 days after submission]
Commission decision	[no later than 90 days after proposed decision]

Parties shall serve any prepared 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. If the parties stipulate to the admission of written testimony without cross-examination, the administrative law judge may remove the evidentiary hearing from calendar and the parties may move the admission of prepared testimony by written motion pursuant to Rule 13.8(d). Requests for final oral argument pursuant to Rule 13.13(b) shall be made in concurrent opening briefs.

Requests for final oral argument:

Requests for final oral argument pursuant to Rule 13.13(b) shall be made in concurrent opening briefs.

Resolution of proceeding:

The proceeding should be resolved within 18 months of this scoping memo as provided by Pub. Util. Code § 1701.5.

**5. 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 that hearings are needed. (Resolution ALJ 176- 3306.) Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

**6. Assignment of Proceeding**

Commissioner Michel P. Florio is the assigned Commissioner and Administrative Law Judge Hallie Yacknin 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 are needed, as described above.
5. The presiding officer is Administrative Law Judge Hallie Yacknin.

Dated August 29, 2013, at San Francisco, California.

/s/ MICHEL P. FLORIO

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Michel P. Florio  
Assigned Commissioner