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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In The Matter of the Application of
San Diego Gas & Electric Company
(U902E) for a Permit to Construct
Electrical Facilities: Cleveland National
Forest Power Line Replacement Projects.

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

ASSIGNED COMMISSIONER'S AMENDED SCOPING MEMO AND RULING

Summary

The *Assigned Commissioner's Scoping Memo and Ruling*, filed on March 17, 2014, addresses both the scope and schedule for this application.¹ Following a second prehearing conference (PHC) held on November 17, 2014, this ruling affirms the scope and revises the schedule in the interest of efficient and fair resolution of this application.

2. Background

2.1. Procedural History Update

At the 2nd PHC, the organization Backcountry Against Dumps (Backcountry) appeared and requested party status by oral motion, which Rule 1.4(a)(4) of the Commission's Rules of Practice and Procedure (Rules) authorizes. The assigned Administrative Law Judge (ALJ) granted

¹ See: <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K954/88954574.PDF>

Backcountry's motion, but expressly limited to participation within the established scope of this proceeding.

2.2. Status of Environmental Review

This application by San Diego Gas & Electric Company (SDG&E) concerns a proposed project within the independent jurisdiction of several state and federal agencies and subject to environmental review under both state and federal laws. As discussed in greater detail in my March 2014 scoping memo, the Commission and the United States Forest Service (Forest Service) have independent authority to approve the project and are the joint lead agencies for environmental review.² On September 5, 2014, the Commission and the Forest Service jointly released a Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS).

Following release of the Draft, the agencies set a 60-day public comment period (an expansion of the 45-day minimum) and also held a public meeting/workshop in Alpine, California on October 1, 2014. Preparation of the joint Final EIR/EIS has commenced and public release in February 2015 is anticipated.

3. Project Description; Authority Sought; Safety Implications

My March 2014 scoping memo discusses SDG&E's proposed project in detail, including SDG&E's four project objectives (among them, fire hardening and service reliability). Section A.5.2 of the Draft EIR/EIS specifies, as required

² The California Environmental Quality Act (CEQA) governs Commission review and the National Environmental Policy Act governs Forest Service review.

by CEQA Guidelines § 15124(b), the two project objectives the Commission used in the identification of project alternatives:

- Reduce Fire risk by fire hardening electric facilities in and around the Cleveland National Forest.
- Improve the reliability of the power delivery to surrounding communities.

Both of these project objectives have safety implications for residents and visitors to the Cleveland National Forest and adjacent lands.

4. Update on Party Perspectives Re: Scope and Need for Hearings

At the November 17 PHC, Protect Our Communities Foundation (POC), Cleveland National Forest Foundation (CNF Foundation), and Backcountry all articulated their dissatisfaction with Draft EIR/EIS and requested evidentiary hearings. Their statements were transcribed and are reported in the PHC transcript.

POC, for example, asked for hearings because in its view, the Draft EIR/EIS has failed to thoroughly examine alternatives it proposed but rather “dismissed [them] without basis.” (Tr. 58:23-59:6.) CNF Foundation argued that the Draft EIR/EIS “treats the forest like wasteland” and has inadequately recognized the “resources [in the forest] that are so unique and so limiting and so vital to the people of San Diego and for many generations to come.” (Tr. 65:1-2; 65:10-18.)

Unlike POC or CNF Foundation, Backcountry expressed particular concern about one segment of the environmentally superior alternative in the Draft EIR/EIS – a portion of TL6931 that would require fire hardening (but would remain a single-circuit 69kV line) in order to allow for the removal of

TL626. In a different application, now closed,³ Backcountry opposed modifications to TL6931 that included adding a second-circuit to the line and increasing the voltage from 69kV to 138kV. At the November 17 PHC, SDG&E pointed out that neither removal of TL626 nor fire hardening of TL6931 is part of its proposed project. That is accurate; these proposed actions were developed in the Draft EIR/EIS in response to concerns expressed during initial public scoping. Also specific to TL6931, Backcountry indicated concern about the adequacy of SDG&E's EMF mitigation plan. SDG&E responded that it might need to amend that plan, depending upon the specific segment components that constitute the environmentally superior alternative in the Final EIR/EIS.

5. Scope of Issues

As discussed at length in my March 2014 scoping memo, SDG&E's application to reconstruct five power lines for fire hardening, service reliability and related reasons is subject to Commission review pursuant to the permit to construct (PTC) provisions of Section III.B of the Commission's General Order (GO) 131-D and in accordance with CEQA. No party has shown otherwise.

The March 2014 scoping memo explains the review process for a PTC application, identifies the seven issues the Commission must consider in

³ Backcountry's opposition arose in A.12-12-007, where SDG&E sought authority to fire harden a portion of power line TL6931 and to provide a new generation interconnection circuit to Boulevard East Substation for the proposed Shu'luuk Wind Project. Subsequently, when the wind project developers determined not to pursue the interconnection, SDG&E filed a motion to withdraw the application. On March 6, 2014, by D.14-03-001, the Commission dismissed the application and closed the proceeding.

reaching an ultimate decision, and indicates where the record development on each occurs.⁴

PTC review focuses primarily on environmental issues (not project cost or need); most of the environmental review (on Issues 1, 2 and 3) occurs through a parallel but concurrent study and analysis conducted in accordance with CEQA. This study and analysis results in an environmental document--here the EIR, which exists in draft form at present. The Commission must certify the EIR before it may grant a PTC (Issue 6).

Issue 7 concerns whether SDG&E's Electric and Magnetic Field Management Plan (EMF Plan), filed as Appendix F to the application, adequately addresses project-related EMFs. If the Final EIR/EIS identifies an environmentally superior alternative that includes a segment that SDG&E's EMF Plan does not address, then that EMF Plan must be amended. My March 2014 scoping memo notes the possibility for such a deficiency and the concomitant need for SDG&E to cure it. And, at the recent PHC, SDG&E expressly recognized a deficiency could arise here. Rule 1.12 of the Rules provides the procedural solution, should one be necessary. Accordingly, within ten days of the public release of the Final EIR/EIS, SDG&E should file and serve an amendment to Appendix F to its application *if* the environmentally superior alternative includes a segment that SDG&E's EMF Plan, as filed, does not address. If an amendment to Appendix F is filed, within ten days thereafter, other interested parties may file and serve a response. All parties are reminded

⁴ The March 2014 scoping memo, at pages 12-13, lists each of the seven issues and provides references to CEQA Guidelines, where relevant.

that the Commission's EMF policies were adopted following a broad review; the sufficiency of the policies is beyond the scope of this PTC proceeding.⁵

The remaining two of seven issues (Issues 4 and 5) potentially could require evidentiary hearings at the Commission:

- Issue 4. Are the mitigation measures or project alternatives infeasible?⁶
- Issue 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 a project alternative?⁷

Prepared testimony is used at the Commission in lieu of oral direct testimony and is the typical means for offering additional, material facts necessary to support or challenge an application. Oral testimony is limited to responses to cross-examination and re-direct, if any. The March 2014 scoping memo clarifies the use of prepared testimony for additional development of the factual record on Issues 4 and/or 5:

Such a showing necessarily would address the specific economic, legal, social, technological or other considerations that render any project alternatives or mitigation measures infeasible [*fn omitted*] or the specific economic, legal, social, technological, or other benefits of the project that outweigh the adverse environmental impacts. [*fn omitted.*] Such a showing *should not* duplicate matters that will be assessed in the EIR. (March 17, 2014 Scoping Memo at 13, emphasis in original.)

⁵ D.93-11-013 (52 CPUC2d1 (1993).)

⁶ See, for example, CEQA Guidelines § 15091(a)(3).

⁷ See, for example, CEQA Guidelines § 15093.

At this stage in environmental review, Table E-3 of Section E.4.3 of the Draft EIR/EIS identifies the environmentally superior alternative, among all of those proposed and studied. I reproduce the text and table below:

E.4.3 Environmentally Superior Alternative

Overall, based on the analysis for each alternative presented in Sections D.2 through D.14, and as summarized in this section, the environmentally superior alternative is defined in Table E-3.

**Table E-3
Environmentally Superior Alternative**

Alternative	Jurisdiction
<i>Power Line Replacement Projects</i>	
SDG&E's proposed power line replacement projects: TL682, TL625, TL629, TL6923, C79, C78, C442, C440, C449.	CPUC, FS, BLM, BIA, and CSP to consider.
Relocation of C157 out of wilderness (Option 2 City of San Diego Modified Alignment)	CPUC and FS to consider
Removal of TL626 and replacement with electric facilities within existing electric utility ROWs* <ul style="list-style-type: none"> • Reconstruction of TL6931 • Conversion of 13 miles of TL626 to 12 kV 	CPUC, FS, and BIA (Campo Reservation) to consider
<i>MSUP</i>	
Partial Removal of Overland Access Roads	FS to consider reduction of existing exclusive use access roads on National Forest lands.

Notes:

¹ Reconstruction of TL6931 compared to developing the TL625 loop-in along the Sunrise Powerlink would rank similarly in terms of number of adverse impacts created vs reduced or eliminated. Reconstruction of TL6931 ranks higher due to the extensive work completed for TL6931, which provides a knowledge base that reduces the risk of impacting environmental resources (Sources: SDG&E 2012, TL6931 PEA)
 BIA = Bureau of Indian Affairs, BLM = Bureau of Land Management, CPUC = California Public Utilities Commission, CSP = California State Parks, FS = Forest Service.

The CEQA review process is continuing and will result in a Final EIR/EIS, which following review of all comments on the Draft EIR/EIS, will determine if CEQA requires identification of a different environmentally superior alternative.

Following release of the Final EIR/EIS, SDG&E must serve prepared testimony that specifies whether it supports the identified environmentally superior alternative. If SDG&E supports that alternative, and if that alternative could result in any Class I impacts that cannot be mitigated to a less-than-

significant level, SDG&E must explain on what basis it believes the Commission should issue a statement of overriding considerations. If SDG&E supports a different alternative, it must identify what mitigation measures, proposed in connection with the identified environmentally superior alternative, it believes are infeasible.

Other parties, if they wish, may concurrently distribute prepared testimony on the infeasibility of proposed mitigation measures. However, ORA, Utility Consumers' Action Network, POC, CNF Foundation and Backcountry are urged to consult with one another to avoid unnecessary duplication of effort that would burden the record and result in unproductive participation.

6. Schedule

The schedule was discussed with the parties present at the PHC. All agreed to these dates, which presume release of the Final EIR/EIS in February 2015 or soon thereafter. The schedule below reserves two days for evidentiary hearing, which may or may not be needed.

Date	Event
February 2015	Final EIR/EIS released.
Within 10 days after public release of Final EIR/EIS	If necessary (see Section 5 above), SDG&E Amendment to Appendix F (to Amendment to Application) filed and served
Within 10 days after filing of Amendment to Appendix F	Response of other parties to Amendment to Appendix F filed and served.
April 20, 2015	Concurrent opening prepared testimony served.
May 1, 2015	Concurrent rebuttal prepared testimony served.

May 11, 2015 at 9:00 a.m., continuing on May 12, as needed	Evidentiary Hearing Commission Courtroom, State Office Building, 505 Van Ness Ave., San Francisco, CA 94102
May 29, 2015	Opening briefs filed and served.
June 12, 2015	Reply briefs filed and served; submission.
On or before September 12, 2015	Proposed decision filed and served.
20 days after proposed decision served	Opening comments on proposed decision filed and served.
5 days after opening comments served	Reply comments on proposed decision filed and served.
1 st Commission meeting 30 days after Proposed Decision filed (unless Proposed Decision qualifies for reduction or waiver of review under Rule 14.6 of Commission's Rules.)	Commission may act at this meeting or may hold matter to a subsequent meeting.

Further, because environmental review has required a little more time than contemplated when I filed my March 2104 scoping memo (the draft EIR/EIS was released on September 2014 rather than in July 2014), there is good cause to extend, pursuant to Pub. Util. Code § 1701.5, the 18 month period for resolution of this ratesetting proceeding. At present the statutory deadline is September 17, 2015. I will authorize a short incremental extension to December 31, 2015, and anticipate that this application will be resolved on or before that date.

In other respects the ALJ may revise the schedule, above, as necessary to promote the efficient and fair resolution of this application.

IT IS RULED that:

1. The scope of the proceeding is affirmed as set forth herein.

2. The schedule for this proceeding is revised as set forth herein and as so revised, is adopted.

3. Evidentiary hearings may be necessary and the schedule consequently sets two days of hearing, which may be cancelled if unnecessary.

4. For good cause, pursuant to Pub. Util. Code § 1701.5, the 18-month period for resolution of this application is extended from September 17, 2015 to December 31, 2015.

Dated November 25, 2014, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner