

**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 Certificate of  
Public Convenience and Necessity for the Sycamore-  
Penasquitos 230 Kilovolt Transmission Line Project

Application 14-04-011

**OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E)**

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## **SDG&E'S RECOMMENDATIONS**

(CPUC Rule of Practice and Procedure 13.11)

SDG&E respectfully recommends that the Commission find:

- (1) Public convenience and necessity requires a 230 kV transmission project connecting SDG&E's Sycamore Canyon and Penasquitos Substations (the "Project") to: (a) maintain long-term grid reliability in the absence of San Onofre Nuclear Generating System (SONGS) generation, including compliance with mandatory NERC, WECC and CAISO reliability standards; (b) deliver energy more efficiently to the load center in San Diego; and (c) support deliverability of renewable resources identified in SDG&E's Renewable Portfolio Standard (RPS) portfolio.
- (2) The Commission has reviewed SDG&E's Proposed Project pursuant to the California Environmental Quality Act ("CEQA"), and issued a Final Environmental Impact Report and Addendum ("FEIR") for the Project. The FEIR has been completed in compliance with CEQA. The FEIR was presented to the Commission. The Commission reviewed and considered the information contained in the FEIR prior to approving a project. The FEIR reflects the Commission's independent judgment and analysis.
- (3) The FEIR identified project alternatives and mitigation measures that would avoid or substantially lessen the significant environmental effects of the Proposed Project as identified in the FEIR. Nonetheless, the Proposed Project and all project alternatives evaluated in the FEIR ("Alternatives") would have certain significant and unavoidable adverse impacts on the environment.

- (4) With the exception of the No Project Alternative, and subject to some permitting risk and uncertainties of preliminary design, all Alternatives appear to be feasible. The FEIR mitigation measures also appear to be feasible .
- (5) The environmentally superior alternative to the Proposed Project is FEIR Alternative 5: Pomerado Road to Miramar Area North Combination Underground/Overhead. This alternative also is the preferred alternative of the California Coastal Commission, which must issue a permit for the Project to proceed. The maximum cost determined to be reasonable and prudent for Alternative 5 is \$260 million.
- (6) Any remaining significant effects on the environment of the Project are acceptable due to the following overriding considerations. The Project is needed for SDG&E to comply with mandatory NERC, WECC and CAISO reliability standards, which in turn are designed to avoid electric service interruptions. Moreover, the Project is needed to allow renewable energy from Imperial Valley to travel east to the San Diego load center. In addition, the Project will help achieve the State's environmental goal of retiring OTC thermal units in San Diego and the Los Angeles area, and mitigate congestion that can result in SDG&E customers paying more for energy.
- (7) SDG&E's Magnetic Field Management Plan is consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.
- (8) The Project's design comports with Commission rules and regulations and other applicable standards governing safe and reliable operations.
- (9) SDG&E is granted a Certificate of Public Convenience and Necessity to construct the environmentally superior Project.

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Application 14-04-011

**OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E)**

**I. INTRODUCTION**

San Diego Gas & Electric Company (“SDG&E”) filed its Application for a Certificate of Public Convenience and Necessity (“CPCN”) for the Sycamore-Penasquitos 230 Kilovolt Transmission Line Project (“Proposed Project”) on April 7, 2014. The Proposed Project is needed to improve the reliability of the existing transmission system in the San Diego metropolitan area through the addition of a new 230 kV transmission line between SDG&E’s existing Sycamore Canyon and Peñasquitos Substations. The Proposed Project would allow SDG&E to meet mandatory reliability standards, deliver renewable and economic generation to its customers, and facilitate achievement of the State’s environmental goals. The Proposed Project was not only approved by the California Independent System Operator (“CAISO”), but also by the Governor’s Task Force, led by the Commission and the California Energy Commission.

All parties agree that a project is needed to address reliability concerns; there is no contrary evidence. The Commission has completed review of the Proposed Project under the California Environmental Quality Act (“CEQA”), and issued a Final Environmental Impact

Report and Addendum<sup>1</sup> (“FEIR”) that identifies “environmentally superior” alternatives to the Proposed Project (“Alternatives”). Because each of such Alternatives provides a new 230 kV connection between Sycamore Canyon and Peñasquitos Substations, SDG&E agrees that such Alternatives meet the reliability needs addressed by the Proposed Project (albeit with some schedule delay). Further, based upon preliminary investigations, engineering and design, SDG&E believes that it is feasible to construct each such Alternative. Because the California Coastal Commission has stated that it prefers the FEIR’s “environmentally superior” alternative, the other Alternatives, including the Proposed Project, present some permitting risk.

The FEIR also identifies mitigation measures intended to avoid or reduce potentially significant environmental impacts. With the clarifications set forth in the Addendum, SDG&E believes that such measures are feasible. There are differences in the estimated cost of the Proposed Project and the various Alternatives. Both SDG&E and ORA agree that SDG&E’s cost estimates should be used to set the Public Utilities Code § 1005.5(a) “maximum cost determined to be reasonable and prudent” for the project approved by the Commission.

SDG&E respectfully requests that the Commission approve the Proposed Project or the “environmentally superior” Alternative with the least permitting risk at the California Coastal Commission, so that SDG&E may construct the project as soon as possible to mitigate reliability risks in SDG&E’s electric system.

## **II. BACKGROUND**

The August 25, 2014 Assigned Commissioner’s Scoping Memo and Ruling (“Scoping Memo”) identified the following issues for resolution in this proceeding:

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<sup>1</sup> Addendum to Final Environmental Impact Report for San Diego Gas & Electric’s Sycamore-Penasquitos 230-Kilovolt Transmission Line Project, dated June 6, 2016 (“Addendum”).

1. Does the proposed project serve a present or future public convenience and necessity? This issue, along with issue no. 2, encompasses consideration of whether the proposed project is a cost-effective means of providing that service. It also encompasses consideration of whether the proposed project is needed to ensure the safe and reliable function of SDG&E's transmission system.
2. What is the maximum prudent and reasonable cost of the project (if approved)?
3. What are the significant adverse environmental impacts of the proposed project? This issue encompasses consideration of recreational and park areas (Pub. Util. Code § 1002(a) (2)), historical and aesthetic value (Pub. Util. Code § 1002(a)(3)), and influence of the environment (Pub. Util. Code § 1002(a)(4)).
4. Are there potentially feasible mitigation measures or project alternatives that will avoid or lessen the significant adverse environmental impacts? This issue encompasses consideration of how to design the proposed project in a manner that ensures its safe and reliable operations.
5. As between the proposed project and the project alternatives, which is environmentally superior?
6. Are the mitigation measures or project alternatives infeasible? This issue encompasses consideration of impacts on community values. (Pub. Util. Code § 1002(a)(1).)
7. 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?
8. 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?
9. 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?
10. Does the project design comport with Commission rules and regulations and other applicable standards governing safe and reliable operations?<sup>2</sup>

Evidentiary hearings were held in February 2015 to address the need for a project, the estimated cost of the Proposed Project, and certain other issues. SDG&E and ORA submitted

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<sup>2</sup> Scoping Memo at 3-4.

supplemental testimony on certain additional issues after the FEIR was issued, and agreed no further evidentiary hearings were necessary.

SDG&E's Opening Brief addresses, in order, the Scoping Memo issues.

### **III. A PROJECT IS NEEDED TO ADDRESS RELIABILITY CONCERNS**

The Scoping Memo's first issue is: "Does the proposed project serve a present or future public convenience and necessity?" Scoping Memo at 3. SDG&E and ORA agree a project is needed to address reliability needs.

"The fundamental problem that the Proposed Project, a 230 kV transmission line from Sycamore Canyon Substation to Penasquitos Substation, is meant to solve is that there is too much power at Sycamore Canyon (the source), causing congestion, and too little power at Penasquitos (the sink) which serves customer demand in the SDG&E's load center."<sup>3</sup>

"SDG&E's ability to operate its bulk electric transmission system reliably, economically and efficiently has become constrained, particularly at gateway substations. During periods of high customer demand and high energy imports, as well as during periods of high renewable energy generation in the Imperial Valley, most of the energy imported into San Diego flows across the 500 kV Southwest Powerlink and Sunrise Powerlink transmission lines. This imported energy then flows into the Miguel and Sycamore Canyon Substations, respectively. Heavy energy flows into these gateway substations can result in congestion and subsequent NERC reliability criteria violations on the 230 kV, 138 kV, and 69 kV transmission and power lines downstream, requiring dispatch of less efficient generation, increasing energy cost for ratepayers and eventually requiring upgrades to these downstream facilities."<sup>4</sup> "The result of the SONGS retirement was that San Diego became even more dependent on power imports from the east,

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<sup>3</sup> Exh. 5 (SDG&E Rebuttal Testimony-Jontry at 2:11-14).

<sup>4</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 1:20 to 2:6).

from the Imperial Valley and points east. This meant higher flows on the Southwest Powerlink and the Sunrise Powerlink, and higher flows into Sycamore Canyon substation, thus pulling forward the need for the Project.”<sup>5</sup>

The need for the Proposed Project was reviewed by SDG&E in its annual transmission planning process, by the CAISO and stakeholders in CAISO’s annual transmission process, and by the Governor’s Task Force on San Onofre Nuclear Generation Station (“SONGS”) and Once-Through Cooling (“OTC”) Generation Retirements. Each concluded that the Proposed Project is needed.<sup>6</sup> “The Project was approved by the CAISO Board as a Category 1 policy-driven project as a part of the 2012-2013 Transmission Expansion Plan on March 20, 2012.”<sup>7</sup>

The Proposed Project is needed to ensure that the SDG&E transmission system meets “mandatory North American Electric Reliability Corporation (NERC) reliability standards, Western Electric Coordination Council (WECC) reliability standards, and California Independent System Operator (CAISO) reliability standards.”<sup>8</sup> The NERC reliability standards have been approved by the Federal Energy Regulatory Commission (“FERC”), and the CAISO standards have been adopted pursuant to CAISO’s FERC-approved tariff.<sup>9</sup> “Under the provisions of the Transmission Control Agreement (TCA) between SDG&E and the CAISO, SDG&E is obligated to meet the CAISO’s reliability standards, as well as those imposed by NERC and WECC.”<sup>10</sup> Among other things, NERC “TPL-002-0 requires all transmission lines

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<sup>5</sup> Exh. 5 (SDG&E Rebuttal Testimony-Jontry at 15:11-14).

<sup>6</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 2:18 to 3:4, 4:17 to 11:5).

<sup>7</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 8:23-24).

<sup>8</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 3:7-10).

<sup>9</sup> Federal Power Act § 215, 16 U.S.C. § 824o, 18 C.F.R. § 40.2; FERC Order 693; Exh. 1 (SDG&E Prepared Testimony-Jontry at 5:9).

<sup>10</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 4:13-16) (footnote omitted).

and transformers that remain in service following the loss of a single transmission line or transformer to be within applicable ratings.”<sup>11</sup>

In addition to SDG&E’s 2012 and CAISO’s 2012/2013 determinations that the Proposed Project mitigated expected NERC violations,<sup>12</sup> SDG&E updated its analysis for its August 2014 Prepared Testimony. The updated analysis reflected, among other things, the official retirement of SONGS, changes in available generation units, and changes in the transmission system.<sup>13</sup> SDG&E also utilized the load forecast for the SDG&E service territory that “[CAISO], the CPUC, and the California Energy Commission (CEC) directed should be used in transmission planning. The CEC’s Integrated Energy Policy Report (‘IEPR’) states that the leadership of the CEC, CPUC and CAISO agreed that ‘using the low mid AAEE scenario for local studies is more prudent at this time.’”<sup>14</sup> As directed by the CAISO 2014-2015 Transmission Planning Process, Unified Planning Assumptions and Study Plan, March 31, 2014 Final, the “proper load forecast for SDG&E is the Mid Demand Baseline- Low Mid AAEE (“Low-Mid AAEE”) (AAEE is “Additional Achievable Energy Efficiency”).<sup>15</sup>

SDG&E’s updated analysis identified numerous expected NERC Category B violations in 2017 and 2024 without the Proposed Project, and which will be mitigated by the Proposed Project.<sup>16</sup> ORA agrees that SDG&E must comply with the FERC-approved NERC reliability standards and, pursuant to its Transmission Control Agreement with CAISO, must also comply

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<sup>11</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 4:5-6). SDG&E notes that NERC TPL-001-4 has replaced NERC TPL-002-0b as of December 31, 2015. The old TPLs were effective when SDG&E filed this Application and through evidentiary hearings. The parties referred to the then-effective NERC reliability standards, and Category B and C contingencies, which now are referred to as P1-P7 contingencies. The change in nomenclature does not affect the NERC violations identified in this proceeding. SDG&E will refer to “Category B” contingencies herein.

<sup>12</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 6:1:13).

<sup>13</sup> Exh. 1 (SDG&E Prepared Testimony-Lin at 12:17 to 14:15).

<sup>14</sup> Exh. 5 (SDG&E Rebuttal Testimony-Jontry at 3:16 to 4:1, *quoting* CEC 2013 IEPR at 130).

<sup>15</sup> Exh. 5 (SDG&E Rebuttal Testimony-Jontry at 4:1 to 5:6).

<sup>16</sup> Exh. 1 (SDG&E Prepared Testimony-Lin at 16:3 to 26).

with the WECC and CAISO planning standards.<sup>17</sup> ORA's prepared testimony agreed that, without a project, NERC Category B violations are expected and a project is needed.<sup>18</sup> ORA's witness, William Stephenson, agreed that "that to avoid category B violations, some kind of mitigation is required in SDG&E's system."<sup>19</sup> While SDG&E disagreed with ORA's proposed mitigations presented during evidentiary hearings, that dispute is no longer relevant. As ALJ Yacknin noted: "ORA alternatives that have not been environmentally – unless they've been environmentally assessed in the EIR are not -- the Commission cannot adopt them."<sup>20</sup>

In addition to meeting mandatory reliability standards, "[t]here are two significant State of California goals that will be advanced by the Proposed Project – integration of renewables in order to meet the State of California's RPS goal of 33 percent by 2020, and the retirement of OTC thermal units in San Diego and the Los Angeles area."<sup>21</sup>

In sum, as John Jontry, a manager in SDG&E's Transmission Planning Department, testified:

In summary, the Sycamore-Pensquitos 230 kV transmission line project is necessary for the following reasons:

- 1) To meet NERC, WECC, and CAISO reliability criteria and standards, as clearly demonstrated in analysis performed by the independent system operator as well as SDG&E technical staff.
- 2) For the State of California to meet important public policy goals, including the Renewable Portfolio Standard, the integration of renewable resources and the planned Once-Through Cooling generation retirements.

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<sup>17</sup> Hearing Transcript at 218:8 to 220:17, 262:22-24.

<sup>18</sup> Exh. 4 (ORA Testimony-Stephenson at 4-5). Indeed, Administrative Law Judge ("ALJ") Yacknin recognized this agreement in allowing ORA to amend its prepared testimony after SDG&E served its rebuttal testimony, stating: "There's no apparent material dispute so far as I can tell from the prepared testimonies that there is a reliability problem that needs fixing. The dispute here seems to be about the best alternative to feasibly and most cheaply meet that need." Hearing Transcript at 6:2-7.

<sup>19</sup> Hearing Transcript at 254:7 to 255:28.

<sup>20</sup> Hearing Transcript at 12:14-19.

<sup>21</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 5:5-8 & *generally* at 5:9 to 8:24).

- 3) Is a feasible and effective long-term mitigation for the identified system issues, including the retirement of SONGS.
- 4) Is independent of system load forecasts, as demonstrated in the updated analysis performed by SDG&E technical staff, and has been reviewed and found to be effective and necessary in multiple open stakeholder processes, including the Governor’s Task Force.<sup>22</sup>

Both SDG&E and ORA agree a project is needed; there is no contrary evidence.

#### IV. MAXIMUM COST OF PROJECT UNDER SECTION 1005.5(a)

The Scoping Memo’s second issue is: “What is the maximum prudent and reasonable cost of the project (if approved)?”<sup>23</sup> Public Utilities Code § 1005.5(a) provides:

Whenever the commission issues to an electrical or gas corporation a certificate authorizing the new construction of any addition to or extension of the corporation's plant estimated to cost greater than fifty million dollars (\$50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

(Emphasis added). The Commission’s determination is based on the evidentiary record.<sup>24</sup>

SDG&E submitted testimony that the estimated cost of the Proposed Project is \$134,500,000, including a \$22,400,000 contingency,<sup>25</sup> and explained the basis for its cost estimate.<sup>26</sup> No party rebutted this testimony or submitted opposing testimony.

SDG&E also submitted testimony regarding the estimated cost of the FEIR’s Ranked Alternatives to the Proposed Project, and the basis for each such cost estimate.<sup>27</sup> The estimated cost of most of the Ranked Alternatives are summarized in the table below.

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<sup>22</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 28:5 to 29:6).

<sup>23</sup> Scoping Memo at 3.

<sup>24</sup> See D.01-10-029 at 137.

<sup>25</sup> Exh. 2 (SDG&E Prepared Testimony-Thomas at 16).

<sup>26</sup> Exh. 2 (SDG&E Prepared Testimony-Thomas at 14-18).

<sup>27</sup> Exh. 21 SDG&E Supplemental Testimony-Thomas at 1-2, 13-17, 20, 25-29, 34-37).

| <b>Ranked Alternative #<sup>28</sup></b> | <b>FEIR Description</b>   | <b>SDG&amp;E Estimated Cost</b>                      |
|--|---|--|
| Ranked Alternative #1                    | Alternative 5: Pomerado Road to Miramar Area North Combination Underground/Overhead   | \$259,670,632, including \$41,882,360 in contingency |
| Ranked Alternative #2                    | Combination of Alternative 2: Eastern Cable Pole at P40 and Underground Alignment through City Open Space and Alternative 4: Segment D 69-kV Partial Underground Alignment, with Proposed Project in Segments A, B, and C                                       | \$208,608,295, including \$33,646,499 in contingency |
| Ranked Alternative #3                    | Combination of Alternative 1: Cable Pole at Carmel Valley Road and Alternative 4: Segment D 69-kV Partial Underground Alignment, with Proposed Project in Segments A, B, and C  | \$208,608,295, including \$33,646,499 in contingency |
| Ranked Alternative #4a                   | Alternative 4: Segment D 69-kV Partial Underground Alignment, with:<br>a. Proposed Project in Segments A, B, and C;   | \$208,608,295, including \$33,646,499 in contingency |
| Ranked Alternative #4b                   | Alternative 4: Segment D 69-kV Partial Underground Alignment, with: ...<br>b. Alternative 3: Los Peñasquitos Canyon Preserve —Mercy Road Underground with Proposed Project in Segment A between the Sycamore Canyon Substation and Ivy Hill Drive and Segment D | \$223,334,479, including \$36,021,690 in contingency |

<sup>28</sup> The Ranked Alternatives are found in the FEIR at ES-62 to ES-63.

|                        |   |   |
|------------------------|---|---|
| Ranked Alternative #5  | Alternative 2: Eastern Cable Pole at Pole P40 and Underground Alignment through City Open Space or City Water Utility Service Road, with Proposed Project in all other locations  | \$134,500,000, including a \$22,400,000 contingency |
| Ranked Alternative #6  | Alternative 1: Eastern Cable Pole at Carmel Valley Road, with Proposed Project in all other locations   | \$134,500,000, including a \$22,400,000 contingency |
| Ranked Alternative #7a | Proposed Project  | \$134,500,000, including a \$22,400,000 contingency |
| Ranked Alternative #7b | Alternative 3: Los Peñasquitos Canyon Preserve —Mercy Road Underground with Proposed Project in Segment A between the Sycamore Canyon Substation and Ivy Hill Drive and Segment D | Not estimated                                       |
| Ranked Alternative #8  | No Project Alternative  | Not estimated                                       |

No party rebutted SDG&E’s cost estimates for the Alternatives, or submitted opposing testimony. ORA agrees that SDG&E’s cost estimates should be used to set the “cost cap” under Section 1005.5.<sup>29</sup> If the Commission selects Ranked Alternative #1 (Alternative 5), the maximum cost determined to be reasonable and prudent under Section 1005.5 should be \$259,670,632.

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<sup>29</sup> Exh. 22 (ORA Revised May 13, 2016 Testimony-Myers at 3:16 - 4:21).

## V. SIGNIFICANT ENVIRONMENTAL IMPACTS

The Scoping Memo's third issue is: "What are the significant adverse environmental impacts of the proposed project?"<sup>30</sup> The Commission analyzed the potential environmental impacts of the Proposed Project. According to the FEIR at ES-23:

The Proposed Project would have nine significant and unavoidable impacts in the following resource areas: aesthetics, transportation and traffic, noise, and recreation. The Proposed Project would have significant impacts that can be mitigated to a less than significant level in nine resource areas: biological resources, cultural resources, paleontological resources, geology and soils, hydrology and water resources, hazards and hazardous materials, fire and fuels management, air quality, and utilities and public service systems. Impacts in two resource areas would be less than significant without mitigation: agricultural resources and greenhouse gases. The Proposed Project would have no impact to land use or population and housing. Table ES.6-2 provides a summary of the significant and unavoidable impacts for the Proposed Project.

The Proposed Project's (and Alternatives') potential impacts are summarized in the FEIR, Executive Summary, at ES-23 to ES-54, and in detail in the FEIR, Vols. II & III, Section 4.

## VI. POTENTIALLY FEASIBLE MITIGATION MEASURES OR PROJECT ALTERNATIVES TO ADDRESS SIGNIFICANT IMPACTS

The Scoping Memo's fourth issue is: "Are there potentially feasible mitigation measures or project alternatives that will avoid or lessen the significant adverse environmental impacts?"<sup>31</sup> SDG&E first addresses the potentially feasible mitigation measures and then briefly turns to the FEIR's consideration of project alternatives.

### A. Potentially Feasible Mitigation Measures That Will Avoid or Lessen the Proposed Project's (Or Any Alternative's) Environmental Impacts

Under CEQA, the EIR must identify "feasible measures which could minimize significant adverse impacts" of each alternative. CEQA Guideline §15126.4(a). The FEIR, Vols. II & III, Section 4, discusses the potentially significant impacts of the Proposed Project and

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<sup>30</sup> Scoping Memo at 3.

<sup>31</sup> Scoping Memo at 3.

the Alternatives, and then identifies proposed mitigation measures to reduce such impacts to less than significant in nine resource areas. Such measures are set forth in FEIR Table ES.10-1.

SDG&E agrees that the potentially significant environmental impacts of the Proposed Project and Alternatives identified in the FEIR can be avoided or lessened through mitigation measures. Based upon its understanding of them, SDG&E believes that the FEIR-identified mitigation measures, as modified in the Addendum, are feasible.

**B. Potentially Feasible Alternatives That Will Avoid or Lessen the Proposed Project’s Environmental Impacts**

Under CEQA, the lead agency “must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” CEQA Guideline §15126.6(a). As part of the CEQA process, the CPUC’s Energy Division considered 43 potential alternatives to the Proposed Project. A screening process eliminated 38 of the potential alternatives, and five alternatives were evaluated in depth.<sup>32</sup> SDG&E agrees that the FEIR describes a reasonable range of potentially feasible alternatives to the Proposed Project.

**VII. ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

The Scoping Memo’s fifth issue is: “As between the proposed project and the project alternatives, which is environmentally superior?”<sup>33</sup>

The FEIR evaluates five alternatives to the Proposed Project (numbered “Alternative 1” to “Alternative 5”),<sup>34</sup> and then provides a ranking of alternatives to the Proposed Project.<sup>35</sup> Some of the “ranked alternatives” consist of combinations of parts of the FEIR’s numbered

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<sup>32</sup> FEIR at ES-12 to ES-13.

<sup>33</sup> Scoping Memo at 3.

<sup>34</sup> FEIR at ES-13.

<sup>35</sup> FEIR at ES-62 to ES-63.

Alternatives, or a numbered Alternative and the Proposed Project. The FEIR ranks the Proposed Project, alternatives to the Proposed Project, and the No Project Alternative as follows:

1. Alternative 5: Pomerado Road to Miramar Area North Combination Underground/Overhead
2. Combination of Alternative 2: Eastern Cable Pole at P40 and Underground Alignment through City Open Space and Alternative 4: Segment D 69-kV Partial Underground Alignment, with Proposed Project in Segments A, B, and C
3. Combination of Alternative 1: Cable Pole at Carmel Valley Road and Alternative 4: Segment D 69-kV Partial Underground Alignment, with Proposed Project in Segments A, B, and C
4. Alternative 4: Segment D 69-kV Partial Underground Alignment, with:
  - a. Proposed Project in Segments A, B, and C; or
  - b. Alternative 3: Los Peñasquitos Canyon Preserve —Mercy Road Underground with Proposed Project in Segment A between the Sycamore Canyon Substation and Ivy Hill Drive and Segment D
5. Alternative 2: Eastern Cable Pole at Pole P40 and Underground Alignment through City Open Space or City Water Utility Service Road, with Proposed Project in all other locations
6. Alternative 1: Eastern Cable Pole at Carmel Valley Road, with Proposed Project in all other locations
7. Proposed Project or Alternative 3: Los Peñasquitos Canyon Preserve —Mercy Road Underground with Proposed Project in Segment A between the Sycamore Canyon Substation and Ivy Hill Drive and Segment D
8. No Project Alternative<sup>36</sup>

Based on the FEIR’s analysis and ranking, the FEIR’s Ranked Alternative #1, which is the FEIR’s Alternative 5, is the “environmentally superior” alternative, and is “environmentally superior” to the Proposed Project.

## **VIII. INFEASIBILITY OF MITIGATION MEASURES OR PROJECT ALTERNATIVES**

The Scoping Memo’s sixth issue is: “Are the mitigation measures or project alternatives infeasible?”<sup>37</sup> Under CEQA Guidelines § 15091(a), the Commission must make written findings

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<sup>36</sup> FEIR at ES-62 to ES-63.

<sup>37</sup> Scoping Memo at 3.

regarding significant environmental effects of the Project. The possible findings include:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

...

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.<sup>38</sup>

CEQA Guideline § 15091(a). SDG&E first addresses the feasibility of certain mitigation measures and then turns to the feasibility of the Alternatives.

**A. The FEIR Mitigation Measures Appear to be Feasible**

Based upon its understanding of them, SDG&E believes that the FEIR's proposed mitigation measures, as clarified in the Addendum, are feasible. CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors."<sup>39</sup>

The FEIR Addendum clarified "Mitigation Measure Utilities-1 (MMU-1) by, among other things, stating: "SDG&E shall provide verification that water will be obtained from a non-potable source, or verification of the specific circumstances, requirements, and time frame during which potable water will be used, to the CPUC a minimum of 60 days prior to the start of construction."<sup>40</sup> SDG&E understands this sentence to require SDG&E, 60 days before the start of construction, to verify the circumstances, requirements and time frame under which SDG&E will or may use potable water. As SDG&E cannot anticipate, 60 days before starting construction, an unexpected shut down of non-potable sources after construction begins, SDG&E

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<sup>38</sup> CEQA Guideline § 15091(a), 14 Cal. Code Regs. § 15091(a).

<sup>39</sup> Cal. Pub. Resources Code § 21061.1.

<sup>40</sup> Addendum at 8.

believes that this is the proper interpretation of revised MMU-1 given the preceding sentence's permission to use potable water "during limited periods when non-potable water sources are offline and not available."<sup>41</sup> With that understanding, SDG&E believes MMU-1 is feasible.

**B. With the Exception of the No Project Alternative and Subject to Permitting Risk, the Alternatives Appear to Be Feasible**

With the exception of the No Project Alternative, and subject to some permitting risk and uncertainty in final engineering, SDG&E believes that the FEIR Alternatives are feasible. The Commission should find that the No Project Alternative is not feasible because it is undesirable, fails to achieve any of the project objectives, and would require other infrastructure development resulting in additional environmental impacts.

In determining feasibility under CEQA, after consideration of economic, environmental, social, and technological factors, the courts have held that "an agency may conclude that an ... alternative is impractical or undesirable from a policy standpoint and reject it as infeasible on that ground." *California Native Plant Society v. City of Santa Cruz*, 177 Cal. App. 4th 957 (2009); *accord, e.g., City of Del Mar v. City of San Diego*, 133 Cal. App. 3d 401, 417 (1982) ("feasibility" under CEQA encompasses "desirability" to the extent based on the legal factors).

The Commission follows the same approach. In its Decision 09-07-024 regarding SDG&E's Sunrise Powerlink Transmission Project, the Commission recognized that it makes the ultimate feasibility finding based upon factors including its policies:

Beyond the language which will be modified, the Decision's reasoning regarding the infeasibility of the In-Area Renewable Alternative is legally sound and meets the requirements of CEQA. The feasibility of alternatives is considered at two separate stages in the CEQA process. First, alternatives are screened for potential feasibility before preparing the EIR, in order to determine which alternatives merit further review. (Guidelines, § 15126.6 (a).) Later, where there are environmentally superior alternatives, an agency must find them infeasible before approving an environmentally inferior

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<sup>41</sup> Addendum at 8.

project. (Guidelines, § 15091 (a)(3).) At this later stage, "feasibility' under CEQA encompasses "desirability" to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417) and the degree to which the project is consistent with the project objectives. (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1503.) Pursuant to CEQA, therefore, it is acceptable for an agency to reject an alternative as infeasible, when the EIR concluded it was feasible for the purpose of environmental review. (*Mira Mar Mobile Community v. City of Oceanside, supra*, 119 Cal.App.4th at p. 491). ...

D.09-07-024 at 18 (emphasis added). The same approach applies here.

The No Project Alternative should be rejected for numerous reasons. First, it is not the “environmentally superior” alternative. As recognized by Energy Division: “If neither the Proposed Project nor any of the five alternatives is approved, there are potential NERC reliability criteria violations that SDG&E would need to mitigate to avoid fines (up to \$1 million per day per violation). The No Project Alternative therefore considers the actions that SDG&E would likely take to comply with NERC reliability criteria.”<sup>42</sup> “The No Project Alternative would require approximately 35 miles of new and 48 miles of reconductored overhead and potentially underground transmission and power lines compared with 13.3 miles of overhead transmission line for the Proposed Project.”<sup>43</sup> “The No Project Alternative would not reduce the any significant and unavoidable impacts of the Proposed Project and would increase impacts due to the greater number of miles affected by construction and the presence of additional transmission lines.”<sup>44</sup> As a result, the No Project Alternative was the lowest ranked alternative based on environmental impacts.<sup>45</sup>

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<sup>42</sup> FEIR at ES-19.

<sup>43</sup> FEIR at ES-69.

<sup>44</sup> FEIR at ES-70.

<sup>45</sup> FEIR at ES-62 to ES-63.

Second, the No Project Alternative is infeasible under CEQA Guideline § 15091(a)(3) because it fails to meet either SDG&E's project objectives<sup>46</sup> or the CPUC's basic project objectives, which reflect specific economic and social considerations. The CPUC's basic project objectives are: (1) "Maintain long-term grid reliability in the absence of San Onofre Nuclear Generating System (SONGS) generation"; (2) "Deliver energy more efficiently to the load center in San Diego"; and (3) "Support deliverability of renewable resources identified in SDG&E's Renewable Portfolio Standard (RPS) portfolio."<sup>47</sup> The Commission has found that failure to meet such project objectives renders a "no project" alternative infeasible.<sup>48</sup> Given the need for the Proposed Project, as discussed above, the No Project Alternative should be found infeasible.

The other FEIR Alternatives are routing alternatives that provide a 230 kV connection between SDG&E's Sycamore Canyon and Penasquitos Substations. As a result, such Alternatives achieve SDG&E's and the CPUC's project objectives, mitigating expected NERC violations and enhancing reliable electric service.

"Based upon preliminary investigations, engineering and design," SDG&E believes it is feasible to construct each of the FEIR Alternatives. However, because final engineering and design have not been completed, there are uncertainties associated with underground utility and subsurface investigations, structural capacity of existing structures, and Federal Aviation

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<sup>46</sup> FEIR at ES-7 to ES-8.

<sup>47</sup> FEIR at ES-8 to ES-9.

<sup>48</sup> *See, e.g.*, D.10-08-009 at 17 ("Alternative 1, in which the proposed project would not be constructed, would avoid all significant impacts but would not achieve project objectives."); D.10-12-052 at 41 ("Neither of the two remaining alternatives, which include the No Project alternative and the non-wires alternative, meets the project objectives. Therefore, the proposed route was determined to be the environmentally superior alternative among alternatives that would meet the Commission's project objectives as set forth in the Joint EIR/EIS.").

Administration requirements.<sup>49</sup> If upon further investigation any of these uncertainties renders the chosen Project infeasible, SDG&E will return to the Commission for resolution.

SDG&E also notes that the various Alternatives have some permitting risk. The most significant is the California Coastal Commission's preference for the "environmentally superior" alternative (Ranked Alternative #1 or FEIR Alternative 5). If the Commission selects Ranked Alternative #1, this permitting risk should be minimal.

## **IX. OVERRIDING CONSIDERATIONS**

The Scoping Memo's sixth issue is: "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?"<sup>50</sup> Here, the Proposed Project and any of the Alternatives will result in significant and unavoidable adverse environmental impacts. Therefore, to proceed with any project, the Commission must find that overriding considerations warrant approval despite such impacts.

CEQA Guideline § 15093(a) provides:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."<sup>51</sup>

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<sup>49</sup> Exh. 21 SDG&E Supplemental Testimony-Thomas at 3:28 to 4:29, 22:18 to 23:7, 30:23 to 31:12).

<sup>50</sup> Scoping Memo at 3.

<sup>51</sup> CEQA Guideline § 15093(a), 14 Cal. Code Regs. § 15093(a).

Here, furthering the reliability of electric service, facilitating achievement of California's RPS mandate, providing access to lower-cost energy, and allowing retirement of OTC generation are overriding considerations that outweigh any adverse environmental effects of the Proposed Project or the Alternatives.

As discussed above, the Proposed Project (or an Alternative) is needed for SDG&E to comply with mandatory NERC, WECC and CAISO reliability standards, which in turn are designed to avoid electric service interruptions. Moreover, the Proposed Project (or an Alternative) is needed to allow renewable energy from Imperial Valley to travel east to the San Diego load center. The Commission has found each of these kinds of benefits to support overriding considerations. *See, e.g.*, D.12-06-039 at 12 ("ECO Substation Project's contribution to California's progress toward federal and state greenhouse gas reduction and renewable electricity goals, and the increased reliability of electric service to the local communities, are overriding considerations that support our approval"); D.11-07-020 at 14-15 (overriding considerations where "project will enable the Desert Sunlight Solar Farm to interconnect to the CAISO-controlled transmission grid, aiding in progress towards federal and state greenhouse gas reduction and renewable electricity goals"); D.10-12-052 at 43 (project "will provide substantial benefits, including, but not limited to, facilitating California's renewable energy goals within a reasonable timeframe as well as advancing the state's efforts to reduce its carbon emissions consistent with Assembly Bill 32"); D.10-06-014 at 21 ("The need to improve reliability on existing infrastructure is an overriding consideration that supports our approval of Alternative 1"); D.10-08-009 at 18 (The need to ... provide greater reliability in the event of an outage on the single line that currently serves the Ivyglen Substation are overriding considerations that support our approval of Alternative 5"); D.08-12-031 at 20 (overriding considerations where

“[o]ver the past five years, such [service] interruptions have occurred 27 times at the Banning Substation, 18 times at the Maraschino Substation and 6 times at the Zanja Substation”); D.08-12-031 at 20; D.07-12-018 at 12 (overriding considerations warrant approval where “project is needed to ensure electric reliability in the Yreka-Weed area”); D.08-12-058 at 270 (overriding considerations where project “will facilitate our policy goal of renewable procurement at 33% RPS levels within a reasonable period of time with the greatest economic benefits at the lowest environmental cost”).

In addition, the Proposed Project (or an Alternative) will help achieve the State’s environmental goal of retiring OTC thermal units in San Diego and the Los Angeles area,” and mitigate congestion that can result in SDG&E customers paying more for energy.<sup>52</sup>

The Commission should find that the benefits of maintaining reliable electric service, facilitating integration of renewable energy, allowing retirement of OTC generation units, and providing economic energy for SDG&E’s customers are benefits that outweigh the significant and unavoidable environmental effects of the Proposed Project (or any Alternative).

## **X. THE CPUC’S FEIR COMPLIES WITH CEQA**

The Scoping Memo’s eighth issue is: “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?”<sup>53</sup>

CEQA Guideline § 15090(a) provides that, before “approving a project the lead agency shall certify that: (1) The final EIR has been completed in compliance with CEQA; (2) The final EIR was presented to the decision-making body of the lead agency, and that the decision-making

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<sup>52</sup> Exh. 1 (SDG&E Prepared Testimony-Jontry at 2:3 to 3:14, 5:5-8).

<sup>53</sup> Scoping Memo at 3-4.

body reviewed and considered the information contained in the final EIR prior to approving the project; and (3) The final EIR reflects the lead agency's independent judgment and analysis."

The FEIR will be presented to the Commission, and the Commission will review and consider the information contained in the FEIR, before making a decision on SDG&E's Application. Further, there is no legitimate dispute that the FEIR, which was prepared by the Commission's Energy Division and its contractor, Panorama Environmental, Inc. reflects the Commission's independent judgment and analysis.

The FEIR was completed in compliance with CEQA. SDG&E filed its Application, including its Proponent's Environmental Assessment ("PEA"), for the Project on April 7, 2014. The CPUC Energy Division then undertook a thorough, nearly two-year review that more than complied with all of CEQA's process requirements found in CEQA Guidelines §§ 15080-15090.

The Commission's FEIR contains all information required by CEQA Guidelines §§ 15120-15132, and exhaustively considers the potential environmental impacts of the Proposed Project, evaluates alternatives to the Proposed Project and their environmental impacts, mitigation measures for all alternatives, and cumulative impacts. The CPUC considered a wide range of potential alternatives to the Proposed Project, eliminating some as not meeting the criteria required by CEQA, and fully evaluating a reasonable range of alternatives that "foster[s] meaningful public participation and informed decision making," and permits a "reasoned choice." CEQA Guideline § 15126.6(f).

## **XI. COMPLIANCE WITH COMMISSION’S EMF POLICIES**

The Scoping Memo’s ninth issue is: “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?”<sup>54</sup>

The Scoping Memo notes: “SDG&E presents its EMF compliance plan as Appendix H to the application. To the extent that any party contests the factual issue, evidentiary hearing may be needed.”<sup>55</sup> SDG&E submitted evidence that its Proposed Project is designed in accordance with the Commission’s EMF policy.<sup>56</sup> No party submitted any contrary evidence.

Following issuance of the FEIR, the March 18, 2016 Administrative Law Judge’s Ruling Setting Remaining Schedule (“ALJ Ruling”) required submission of any further evidence regarding compliance with the Commission’s EMF policy. SDG&E submitted evidence of how each Alternative would be designed in accordance with the Commission’s EMF policy.<sup>57</sup> No party submitted any contrary evidence.

At this point, it is unchallenged that SDG&E has complied with the Commission’s EMF policies for the Proposed Project and any of the Alternatives that the Commission may select.

## **XII. COMPLIANCE WITH STANDARDS GOVERNING SAFE AND RELIABLE OPERATIONS**

The Scoping Memo’s tenth issue is: “Does the project design comport with Commission rules and regulations and other applicable standards governing safe and reliable operations?”<sup>58</sup> SDG&E submitted testimony regarding the Proposed Project’s compliance with transmission

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<sup>54</sup> Scoping Memo at 4.

<sup>55</sup> Scoping Memo at 5.

<sup>56</sup> Exh. 3 (SDG&E Turman at 3).

<sup>57</sup> Exh. 21 (SDG&E Supplemental Testimony at 18-19 & Attachment 3).

<sup>58</sup> Scoping Memo at 4.

planning standards, General Orders 95 and 128, and SDG&E standards.<sup>59</sup> No party disputed this evidence or submitted contrary evidence.

### **XIII. CONCLUSION**

SDG&E respectfully requests that the Commission grant SDG&E a Certificate of Public Necessity and Convenience to construct the “environmentally superior” Project and pursuant to Public Utilities Code 1005.5 identify the maximum cost determined to be reasonable and prudent as \$260 million.

Dated in San Diego, California, this 14th day of June, 2016.

Respectfully submitted,

By:                     /s/ Allen K. Trial                      
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<sup>59</sup> Exh. 2 (SDG&E Prepared Testimony-Thomas at 1-14).