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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company (U39E) for a Certificate of Public Convenience and Necessity for the Contra Costa-Oakley Generating Station 230 kV Transmission Line Pursuant to General Order 131-D.

Application 15-06-015
(Filed June 17, 2015)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This Scoping Memo and Ruling sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to California Public Utilities Code (Pub. Util. Code) § 1701.1 and Article 7 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure.¹

1. Background

Pursuant to §§ 1001 *et seq.* of the Pub. Util. Code and General Order 131-D (GO 131-D), Pacific Gas and Electric Company (PG&E) submits this Application for a Certificate of Public Convenience and Necessity (CPCN) for authority to construct a new, approximately 2.4-mile-long, single circuit 230 kilovolt (kV) Generation Tie-Line (Tie-Line). The Tie-Line will connect Contra Costa

¹ Cal. Code of Regulations, Title 20, Div. 1, Ch. 1.

Generating Station LLC's (CCGS) Oakley Generating Station (OGS), a 624-megawatt (MW) combined-cycle gas-fired power plant proposed by CCGS to be located in the City of Oakley, to the California Independent System Operator (CAISO)-controlled grid.

The California Energy Commission (CEC) issued a Certification of the OGS Project on May 18, 2011, including the Tie-Line facilities.² PG&E states that the CEC's California Environmental Quality Act (CEQA)-equivalent analysis satisfies the environmental requirements for the Tie-Line set forth in GO 131-D, § IX.A (h) and §§ 1001 *et. seq.* of the Pub. Util. Code.

PG&E, CAISO, and CCGS executed a Large Generator Interconnection Agreement (LGIA), effective February 8, 2012, as amended September 25, 2014 (Amended LGIA). Under the terms of these Federal Energy Regulatory Commission-accepted agreements, PG&E states it is obligated to interconnect the proposed generation facility. Moreover, the agreements, according to PG&E, authorize CCGS to suspend work on certain Network Upgrades or Distribution Upgrades, and CCGS has exercised that right.

As a result, PG&E states that the Tie-Line is the only aspect of the project that is the subject of this CPCN Application.

PG&E clarifies that it terminated its Amended Purchase and Sale Agreement (PSA) for the OGS facility on October 15, 2014. PG&E states that this Application is not related to, nor does it arise from, the terminated PSA.

PG&E also states, and CCGS agrees, that under the Amended LGIA and Federal Energy Regulatory Commission interconnection rules, CCGS will be

² California Energy Commission Adoption Order and Decision in re Application for Certification of the OGS, Order No. 11-0518-4, Docket No. 09-AFC-4.

responsible for all costs, now estimated at \$5.5 million, for the project and that CCGS will be responsible for all maintenance and operation costs, now estimated at \$3.3 million. PG&E states that no ratepayer costs are associated with this Application.

Protests and responses were filed. The Office of Ratepayer Advocates (ORA) opposes the Application and requests that it be dismissed without prejudice. ORA alleges that the Application is not ripe for consideration by the Commission because the Tie-Line does not serve any public convenience and necessity without the OGS, which CCGS has suspended. The Delta Diablo Sanitation District (DDSD) expressed concern about the details of the transmission line easement across its property. CCGS filed a response in support of the Application.

A prehearing conference (PHC) was held on September 9, 2015.

PG&E contends that DDSD objected to the tie-line project because of concerns about a new tubular steel pole proposed to be located on DDSD property. PG&E reports that PG&E and DDSD tentatively agreed on a relocation of the transmission pole off of DDSD property, onto property owned by PG&E. Because of this change in pole location, PG&E asserts that CCGS needed to inform the CEC of the proposed change so that the CEC could make any required amendments to CCGS' license.

On May 9, 2016 the CEC docketed CCGS's petition to amend the Oakley Generating Station (OGS) to include a tie line support tower location change and a tie line alignment change. On August 11, 2016, the CEC submitted a Notice of Determination that found the CCGS petition to amend the OGS would not have a significant effect on the environment, that the existing conditions of certification are sufficient to cover the proposed modifications, and that the OGS

as modified will maintain full compliance with applicable laws, ordinances, regulations, and standards (LORS).

On September 1, 2016, an Administrative Law Judge Ruling entered into the evidentiary record a status update letter from Office of the County Counsel, County of Contra Costa dated January 13, 2016, and established dates for comments by parties on the current status of the case.

On September 16, 2016, PG&E and CCGS filed comments on the current status of the project and status of discovery. On September 30, 2016, DDSD filed a Notice of Withdrawal of Response to the Application.

2. Scope

Based on the Application, the scope of this proceeding includes the following: whether the Commission should grant a CPCN authorizing PG&E to construct the Tie-Line described in this Application. Accordingly, the Commission must determine the following issues in the proceeding:

1. Does the proposed project serve a present or future public convenience and necessity under Pub. Util. Code § 1001?
2. Whether ratepayers or CCGS are responsible for costs, the legal mechanisms that prescribe how cost recovery is treated, and whether the Commission is legally required to adopt a maximum cost cap.
3. Whether the May 18, 2011 CEC Certification of the OGS Project and associated Environmental Review and the subsequent CEC Notice of Determination regarding the CCGS petition to amend the OGS satisfies the CEQA requirements.
4. Is the proposed project designed in compliance with the Commission's policies (GO 131-D) governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures?

5. Does the project design comport with Commission rules and regulations and other applicable standards governing safe and reliable operations?
6. Is PG&E legally obligated to construct the Tie-Line project?

3. Categorization

The Commission in Resolution ALJ 176-3359, issued on June 25, 2015, preliminarily determined that the category of the proceeding is ratesetting. This scoping memo confirms the categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (*See* Rule 7.6.)

4. Need for Hearing

The Commission in Resolution ALJ 176-3359 preliminarily determined that hearings are required. This ruling confirms this preliminary determination. It is anticipated that the record in this proceeding will be composed of testimony and all documents filed and served by parties.

5. Ex Parte Communications

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the Administrative Law Judge (ALJ) are prohibited except as described at Pub. Util. Code § 1701.3(c) and Article 8 of the Commission's Rules of Practice and Procedures.

6. Workshops

If there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decisionmaker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

7. Intervenor Compensation

Pub. Util. Code § 1804(a)(1) requires that a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation 30 days after a PHC. A PHC was held on September 9, 2015. The Commission did not receive any notices of intent to claim intervenor compensation in this proceeding.

8. Assigned Commissioner and Assigned ALJ

Michael Picker is the assigned Commissioner and Regina DeAngelis is the assigned ALJ. The designated presiding officer is Regina DeAngelis.

9. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find

information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

10. Paper Copies of Filings

The assigned Commissioner and ALJ will rely on electronic copies of documents. No paper copies of filings need be provided to either the Commissioner or ALJ.

11. Electronic Submission and Format of Supporting Documents

The Commission's website accepts electronic submittal of supporting documents (such as testimony and work papers).

If such documents are required, parties shall submit their testimony or work papers in this proceeding through the Commission's electronic filing system.³ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature:
(<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and

³ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

- The Naming Convention for Electronic Submission of Supporting Documents:
<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e., "*ex parte* communications") or other matters related to a proceeding.
- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the ALJ), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the Commission.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e., "record") unless accepted into the record by the ALJ.

All documents submitted through the "Supporting Documents" Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security - PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention - The Commission is required by [Resolution](#) L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is

an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.

- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the Docket Card. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “E-filed Documents, ”
- Select “Supporting Document” as the document type, (do not choose testimony),
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov)
(415) 703-3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov)
(415) 703-5999

12. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission’s Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties.

Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the ALJ.

Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

13. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or who has questions about the

electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

14. Schedule

The adopted schedule is:

EVENT	DATE
Applicant Prepared Testimony on all scoped issues	Within 30 days from date of ruling
All Parties, except Applicant, submit Testimony	Within 30 days from the due date for Applicant's prepared testimony
All Parties, including Applicant, submit Rebuttal Testimony	Within 30 days from due date for Party testimony.
PHC	Date TBD
Evidentiary Hearings, if need, as determined at PHC	Date TBD
Opening Briefs	Date TBD
Reply Briefs	Date TBD
Estimated date for mailing of a Proposed Decision	90 days from due date of Reply Briefs
Anticipated Commission Meeting/Decision	30 Days after Proposed Decision

The assigned Commissioner or ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

It is the Commission's intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission. (Pub. Util. Code § 1701.5(a).)

15. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/> for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

16. Final Oral Argument

A party in a ratesetting proceeding in which a hearing is held has the right to make a Final Oral Argument before the Commission, if the argument is requested within the Closing Brief. (Rule 13.13.)

IT IS RULED that:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within 10 days from the date of this Scoping Memo.
2. The scope of the issues for this proceeding is as stated in Section 2 of this ruling.
3. Hearings are necessary at this time.
4. The schedule for the proceeding is set in Section 14 of this ruling. The assigned Commissioner or Administrative Law Judge may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
5. With exceptions that are subject to reporting requirements, *ex parte* communications are prohibited. (See Pub. Util. Code § 1701.3(c); Article 8 of the Commission's Rules of Practice and Procedure.)
6. Parties shall adhere to the instructions provided in Section 11 of this ruling for submitting supporting documents, as required.

Dated October 7, 2016, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner