

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

Application 07-06-031
(Filed June 29, 2007)

**DECISION ON PETITION FOR MODIFICATION OF DECISION (D.) 09-12-044
AND D.12-03-050 TO FURTHER NARROW CONSTRUCTION STAY OF
SEGMENT 8A OF TEHACHAPI RENEWABLE TRANSMISSION PROJECT**

1. Summary

We approve Southern California Edison Company's unopposed petition for modification, which effectively asks the Commission to modify the authority to construct Segments 4 through 11 of the Tehachapi Renewable Transmission Project granted by Decision (D.) 09-12-044 and the scope of the most recent stay of Segment 8A ordered by D.12-03-050. Today's decision releases from the current, continuing stay (1) all work outside of the City of Chino Hills and (2) work within the City relating solely to the re-location of a portion of the access road that extends off Everest Drive.

2. Background and Procedural History

By Decision (D.) 09-12-044, the Commission granted Southern California Edison Company (SCE) a Certificate of Public Convenience and Necessity to construct Segments 4 through 11 of the Tehachapi Renewable Transmission Project (TRTP), using the Environmentally Superior Alternative, and subject to the mitigation measures and other conditions described in that decision. Several

parties filed applications for rehearing of D.09-12-044, including the City of Chino Hills (Chino Hills), which also filed a motion for partial stay. By D.11-11-020, the Commission stayed D.09-12-044 “to the extent it applies to Segment 8A of the TRTP pending the Commission’s resolution of Chino Hills’ Application for Rehearing.”¹ Shortly thereafter, the Commission issued D.11-11-026 to correct two clerical errors in D.11-11-020 and a few months later, by D.12-03-050, the Commission approved SCE’s unopposed request to narrow the scope of the stay.

On January 28, 2013, SCE filed the instant, unopposed petition for modification (petition) to request that the Commission further narrow the stay. SCE now asks that the Commission expressly confirm that the stay applies only to those portions of Segment 8A “that lie within the City of Chino Hills except for the specific access road work inside the City that the City has agreed upon or that would become unnecessary or obsolete if the Commission were to select one of the underground options” that will be the subject of hearings in April of this year.” (SCE petition at 2.) SCE’s request effectively asks the Commission to modify the authority granted by D.09-12-044 and the scope of the most recent stay of Segment 8A ordered by D.12-03-050. SCE affirmatively states that it has met and conferred with Chino Hills; we observe that responses to the petition were due on February 28, 2013 and none were filed.

¹ D.11-11-020, Ordering Paragraph at 2. At the time D.11-11-020 issued, Chino Hills also had filed two petitions for modification of D.09-12-044, seeking to reopen the record on the portion of Segment 8A of the TRTP that passes through the city, and in the interim, to stay construction of that part of the TRTP.

3. Discussion

3.1. Requirements for Revising a Commission Decision

Pub. Util. Code § 1708² provides that the Commission, after appropriate notice, may alter one of its prior decisions:

The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.

A petition for modification is the procedural vehicle specifically designed to ask the Commission to revise a prior decision. Rule 16.4 of the Commission's Rules of Practice and Procedure governs such petitions.³ SCE's petition meets the requirements for a petition for modification set forth in Rule 16.4(b) and (c) since it clearly specifies the justification for the relief requested, clearly words the relief sought, has been filed and served on all parties to the proceeding, and was filed less than a year after the Commission issued D.12-03-050.

3.2. Nature of Relief Requested

SCE states that following a meet and confer with Chino Hills the two have agreed that the current, partial stay of construction that affects Segment 8A of the TRTP should be modified to "release from the stay (1) all work outside of Chino Hills and (2) work within Chino Hills relating solely to

² All subsequent references to statute mean the Public Utilities Code, unless otherwise specified.

³ All subsequent references to rules mean the Commission's Rules of Practice and Procedure, unless otherwise specified.

the re-location of a portion of the access road that extends off Everest Drive.” (SCE petition at 6.)

With respect to the first part of this request, SCE’s petition contends that there no longer is any valid reason to stay construction east of the potential underground site within Chino Hills, since alternative routes through the state park are not under consideration and underground options, only, will be examined at hearing. As SCE notes, the Assigned Commissioner’s scoping memo expressly states:

I also have excluded all options through the Chino Hills State Park since construction in the park continues to be infeasible, for reasons discussed in D.09-12-044. Further, discussion at the prehearing conference has confirmed that no party actively supports such development. (*Scoping Memo and Ruling of Assigned Commissioner*, July 2, 2012.)

SCE’s petition includes a map (Attachment A to the petition) that shows the location of structures east of Chino Hills where construction work remains to be done whether or not undergrounding is ordered. As described more particularly in the declaration of SCE’s principal project manager, Sandi Blain (Attachment B to the petition), the area at issue is an approximately eight-mile stretch between the Mira Loma Substation in the City of Ontario and the eastern boundary of the City of Chino. SCE estimates that construction along this stretch will take up to 14.5 months to complete.

The second part of the request concerns proposed access road construction within Chino Hills. As shown on the relevant map (Attachment C to the petition) and explained in the Blain deposition, the access road construction, which involves relocation of an earlier, improperly sited road, also would have no effect upon the potential undergrounding site. Further, the City of Chino Hills has approved the grading plans for the road work.

Finally, to the extent that construction crews need not be laid off and delays to the construction schedule are avoided by allowing the two categories of work to go forward, approving the petition is fiscally prudent because it should serve to avoid and ultimately minimize costs. No public purpose is served by continuing imposition of a stay that SCE has shown to be overbroad. Therefore, we should modify D.09-12-044, as partially stayed by D.12-03-050, to stay only that portion of Segment 8A potentially implicated by the unresolved undergrounding issues.

4. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to § 311(g)(2) and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

5. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Jean Vieth is the assigned Administrative Law Judge in this proceeding.

Finding of Facts

1. The unopposed petition for modification motion filed by SCE, on January 28, 2013, concerns two categories of work that have no impact on whether or not to underground Segment 8A within the City of Chino Hills.
2. To the extent that construction crews need not be laid off and delays to the construction schedule are avoided by allowing the two categories of work to go forward, approving the petition should serve to avoid and ultimately minimize costs.

Conclusions of Law:

1. The unopposed petition for modification filed by SCE should be granted.
2. The authority granted herein should be made effective today to prevent delay to the construction schedule and to ensure that costs are minimized.

IT IS ORDERED that:

1. The unopposed petition for modification filed by Southern California Edison Company, on January 28, 2013, is granted, consistent with Ordering Paragraph 2, below.

2. Ordering Paragraph 2 of Decision 12-03-050 is modified as follows:

Therefore, IT IS ORDERED that D.09-12-044 is stayed, pending the Commission's resolution of Chino Hills' Application for Rehearing, to the extent it applies to those portions of Segment 8A of the TRTP that lie within the City of Chino Hills *except for the specific access road work inside the City that the City has agree upon* or that would become unnecessary or obsolete if the Commission were to select one of the ~~21 identified Alternatives to those portions of Segment 8A~~ underground options.

3. Application 07-06-031 remains open.

This order is effective today.

Date _____, San Diego, California.