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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**I.D. # 12084
RESOLUTION E-4580
May 9, 2013**

R E S O L U T I O N

Resolution E-4580: Southern California Edison requests authority to enter into an easement agreement with the City of Ontario.

PROPOSED OUTCOME: This Resolution adopts the findings and conclusions in The Ontario Plan Final Environmental Impact Report pursuant to the California Environmental Quality Act and approves Southern California Edison Advice Letter 2765-E seeking authority to enter into an easement agreement with the City of Ontario, California.

SAFETY: All utilities are expected to comply with all federal and state safety regulations, including Public Utilities Code section 451.

ESTIMATED COST: None.

By Advice Letter 2765-E filed on August 8, 2012

SUMMARY

Southern California Edison (SCE) submitted Advice Letter (AL) 2765-E seeking approval under Public Utilities (PU) Code Section 851 to grant the City of Ontario an easement agreement to construct public street improvements on SCE property located in Ontario, California. This Resolution adopts the findings and conclusions, mitigation measures, and Statement of Overriding Considerations in The Ontario Plan Final Environmental Impact Report (EIR), pursuant to the California Environmental Quality Act (CEQA)¹, and approves SCE AL 2765-E.

¹ Section 21000 et seq. of the California Public Resources Code and the State CEQA Guidelines (Title 14, Section 15000 et seq. of the California Code of Regulations [14 CCR 15000 et seq.]).

BACKGROUND

SCE owns land, buildings and other facilities in connection with the provision of electric service to its customers throughout southern and central California. The City of Ontario has prepared a number of environmental documents related to The Ontario Plan project, which is the City's General Plan and includes the Land Use Plan, a build-out projected to accommodate 104,644 new homes. CEQA review of the project identified several potential environmental impacts, including negative impacts to traffic and transportation. As part of the project and required mitigation plan, the City will construct road-widening improvements along Milliken Avenue, including on a portion of adjacent SCE-owned property. The proposed road-widening is necessary for improved traffic circulation and public access around the new development facilities.

SCE asserts that this easement agreement will not interfere with their ability to provide utility services and is not adverse to the public interest.

AL 2765-E was appropriately filed pursuant to a pilot program to expedite certain transactions via AL that otherwise would be subject to a full PU Code section 851 application (Resolution ALJ-244).

The CPUC's decision to grant or deny the relief sought in AL 2765-E requires Commission review and adoption of the analysis and conclusions of The Ontario Plan Final Environmental Impact Report, issued for public comment from April 8 - May 22, 2009, and certified by the City of Ontario on January 27, 2010. In its review, conducted pursuant to the California Environmental Quality Act, the City acted as Lead Agency and concluded that the proposed project, and all activities associated with it, had impacts that were neither avoided nor completely reduced by mitigation measures. The City concluded, however, that the project provided public benefits which warranted a Statement of Overriding Considerations for those impacts that remained significant after mitigation. Such a review and adoption by the Commission is a discretionary decision pursuant to CEQA, and the CPUC will act as a Responsible Agency for compliance with CEQA. This Resolution adopts the conclusions, findings, mitigation measures, and Statement of Overriding Considerations in the City of Ontario's Final EIR, in accordance with the CEQA Guidelines and the Public Resources Code, and approves the easement agreement between SCE and The City of Ontario.

NOTICE

SCE filed AL 2765-E on August 8, 2012. In accordance with General Order 96-B, Section IV, a copy of this AL was served on the Advice Filing List, Commission staff, and the City of Ontario.

PROTESTS

Protests to AL 2765-E were due no later than August 28, 2012. No protests were received.

DISCUSSION

CEQA requires the Commission to consider the environmental consequences of its discretionary decisions. Pursuant to CEQA and Rule 2.4 of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA. In this instance, the Commission is the Responsible Agency under CEQA with respect to the environmental review of The Ontario Plan and the Final EIR underlying the easement agreement with SCE. The Commission, as a Responsible Agency, must adopt the City of Ontario's findings, conclusions and mitigation measures as set out in The Ontario Plan Final EIR and Resolution No. 2010-003.

A Final EIR was prepared by the City of Ontario pursuant to CEQA that evaluated potential environmental impacts of the project. Potentially significant impacts to several resource areas were identified in the Draft EIR; mitigation measures were developed to avoid or reduce the significance of the potential impacts; and a Final EIR was prepared as the appropriate environmental document for this project. The Final EIR was circulated to various governmental agencies and departments for comment during the public review period from April 8 – May 22, 2009.

The City's Final EIR examined the project, including all associated activities and all related impacts; made findings and conclusions; and developed avoidance or mitigation measures for each potentially significant impact. Environmental protection measures to protect sensitive environmental resources were incorporated into the project and were made conditions of project approval by

the City. Based on this evaluation, the City's Final EIR concluded that not all impacts of the project could be reduced to less-than-significant levels, and a Statement of Overriding Considerations was prepared. On January 27, 2010, the City of Ontario adopted the findings, conclusions, and mitigation measures of the Final EIR in Resolution No. 2010-003, and further found that a Statement of Overriding Considerations was appropriate given the public benefits of the project.

This Commission has reviewed the City's Final EIR as part of our consideration of whether they have complied with CEQA. Based on that review, we find that the City's Final EIR with findings, conclusions and mitigation measures represents our independent judgment regarding the environmental impact of the proposed project. Therefore, we will adopt the Final EIR's findings, conclusions, mitigation measures, and Statement of Overriding Considerations for the proposed project pursuant to and in compliance with CEQA.

COMMENTS

PU Code Section 311(g)(1) requires that Draft Resolutions be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. PU Code section 311(g)(2) and Rule 14.6(c)(2) both provide that the 30-day comment period may be waived "...for an uncontested matter in which the decision grants the relief requested." Therefore pursuant to PU Code section 311(g)(2) and Rule 14.6(c)(2) the 30-day comment period for Draft Resolutions is being waived.

FINDINGS

1. The City of Ontario acted as the Lead Agency pursuant to CEQA for the environmental review of The Ontario Plan proposed project.
2. The City of Ontario issued a Draft EIR for public comment from April 8 - May 22, 2009.
3. The City of Ontario's Draft EIR examined the project in detail, including the portions affecting SCE property, and all related impacts.
4. The City of Ontario's Draft EIR concluded that not all impacts of the project could be reduced to less-than-significant levels, and the City prepared a Statement of Overriding Considerations.
5. On January 27, 2010, the City certified the Final EIR for the project in Resolution No. 2010-003.

6. The City of Ontario also adopted the findings, conclusions and mitigation measures contained in the Final EIR, as well as the Statement of Overriding Considerations.
7. SCE submitted AL 2765-E on August 8, 2012, seeking authority pursuant to PU Code section 851 to enter into an easement agreement with the City of Ontario.
8. SCE appropriately filed AL 2765-E pursuant to a pilot program to expedite certain transactions via AL that otherwise would be subject to a full PU Code section 851 application (Resolution ALJ-244).
9. SCE served all required parties in accordance with General Order 96-B, Section IV.
10. Protests to AL 2765-E were due no later than August 28, 2012, and no protests were received.
11. This agreement would allow the City of Ontario to construct road-widening improvements identified as mitigation in the City of Ontario FEIR, and outlined in the easement agreement, on a portion of SCE-owned property.
12. The decision to grant or deny the relief sought in AL 2765-E requires Commission review and adoption of the analysis and conclusions of the Final EIR -- including the findings, conclusions, and mitigation measures identified therein -- as adopted by the City of Ontario on January 27, 2010.
13. The Commission will act as a Responsible Agency for compliance with CEQA with respect to the environmental review of The Ontario Plan's project underlying the easement agreement with SCE.
14. The Commission has reviewed and considered the City of Ontario's Final EIR prior to adopting the findings, conclusions, and mitigation measures therein.
15. The Commission finds that the findings and conclusions in the City of Ontario's Final EIR reflect the Commission's independent judgment.
16. The Commission concludes that the City of Ontario's Final EIR is competent, comprehensive and has been completed in compliance with CEQA and the Public Resources Code.
17. The City of Ontario's Final EIR should be adopted by the Commission as adequate for decision-making purposes pursuant to CEQA.
18. Pursuant to PU Code section 311(g)(2) and Rule 14.6(c)(2) the 30-day comment period for Draft Resolutions is being waived.

THEREFORE IT IS ORDERED THAT:

1. The City of Ontario's Final EIR for The Ontario Plan is adequate for the Commission's decision-making purposes and is hereby adopted pursuant to the CEQA Guidelines and the Public Resources Code.
2. The easement agreement presented in AL 2765-E between SCE and the City of Ontario to facilitate the road-widening of Milliken Avenue adjacent to SCE property is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 9, 2013, the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director