**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION** **RESOLUTION E-4619**
**October 31, 2013**

# R E S O L U T I O N

Resolution E-4619. Pacific Gas & Electric Company

PROPOSED OUTCOME: Dismisses as invalid, protest of Randell Parker, Kern County Advocates for Agriculture, and approves PG&E Advice Letter 4268-E.

ESTIMATED COST:
PG&E network upgrades: $2,830,000.
Switching Station to be constructed by SunEdison and deeded to PG&E: $9,288,000.

SAFETY IMPLICATIONS: Construction of facilities must comply with CPUC General Orders 95 and 174.

By Advice Letter 4268-E Filed on August 2, 2013.

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## SUMMARY

This Resolution dismisses as invalid, protest from Randell Parker, Kern County Advocates for Agriculture, and approves Pacific Gas & Electric (PG&E) Advice Letter 4268-E. Pursuant to this advice letter, PG&E proposes to construct a new 2.5 acre, 115 Kilovolt (kV) Adobe Switching Station. To interconnect the new switching station, PG&E will replace two existing approximately 65-foot-tall wood poles with similar-sized light-duty steel poles and install three new approximately 70 to 80-foot-tall tubular steel poles to reroute and loop the power line into and out of Adobe Switching Station.

The Commission's General Order (GO) 131-D governs the planning and construction of electric generation, transmission/power/distribution line

facilities and substations. This project falls within and qualifies for the exemption cited by PG&E in their Advice Letter 4268-E.[1] None of the concerns raised by the protestant fits within the specific exceptions to the exemptions of GO 131-D, nor do the protestant's claims support a claim of misapplication of an exemption by PG&E. Therefore, the protest is denied for failure to state a valid reason.

## BACKGROUND

To accommodate the interconnection of SunEdison's planned Adobe Solar Project, to be located on the south side of Crider Road approximately 1.4 miles east of State Route 99 in Kern County, PG&E is proposing to install a new approximately 2.5 acre, 115kV Adobe Switching Station, located on the northeast corner of West Adobe Road and Crider Road. The new switching station will be constructed by SunEdison and owned by PG&E.

To interconnect the new switching station, PG&E will replace two existing approximately 65-foot-tall wood poles and similar-sized light-duty steel poles on the existing Wheeler Ridge-Lamont 115kV Power Line, which extends along West Adobe Road, and install three new approximately 70 to 80-foot-tall tubular steel poles to reroute and loop the power line into and out of Adobe Switching Station.

To facilitate permitting with the CPUC, SunEdison and PG&E coordinated on the details of the project description to be analyzed in the Kern County Draft Environmental Impact Report (DEIR) in late 2011. At that point in the design process, the exact location of the switching station and associated facilities could not be determined. To ensure that the Kern County DEIR adequately covered all potential switching station locations, SunEdison provided Kern County with three switchyard options and a footprint for operations to establish a conservative survey area for the impact analysis.

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[1] General Order (GO) 131 D Section III, Subsection B.1, exempts projects meeting specific conditions from the CPUC's requirement to file an application requesting authority to construct. PG&E believes that this project qualifies for exemption (f) "power lines or substations to be relocated or constructed which have undergone environmental review pursuant to CEQA as part of a larger project, and for which the final CEQA document (Environmental Impact Report (EIR) or Negative Declaration finds no significant unavoidable environmental impacts caused by the proposed line or substation.

PG&E filed a Notice of Construction (NOC) on August 2, 2013. In the NOC, PG&E cited General Order 131-D Section III.B.1 in seeking exemption from Permit to Construct (PTC) permitting requirements for construction that has undergone environmental review pursuant to CEQA as part of a larger project and for which the final CEQA document finds no significant unavoidable environmental impacts caused by the proposed line or substation.

On August 12, PG&E AL 4268 was protested by Randell Parker, claiming that CPUC GO 131-D, Section III.B.1 is not applicable because the larger project CEQA analysis did not adequately review the impacts of the proposed PG&E Adobe Switching Station.

On August 22, 2013 in a letter to Edward Randolph, Energy Division Director, PG&E responded to the protest of Randell Parker. PG&E points out that in December of 2012, Kern County certified a final EIR for the FRV Valley Solar Project (State Clearinghouse #2011111027) which includes an analysis of three potential locations for the Adobe Switching Station and associated generation tie (gen-tie) route.

Furthermore, PG&E asserts that each resource area in the Kern EIR addressed the new switching station and concluded that it would not cause significant unavoidable impacts.

PG&E concludes that the Parker protest has not met the burden of establishing that the Project is not exempt under GO 131-D, Section III.B.1.f.

## NOTICE

Notice of AL 4268-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-B, Section IV.

## PROTESTS

Advice Letter AL 4268-E was protested.

PG&E's Advice Letter AL 4268-E was timely protested by Randell Parker, Kern County Advocates for Agriculture.

PG&E responded to the protest of Randell Parker, on August 22, 2013.

The following is a more detailed summary of the major issues raised in the protest. On August 12, 2013, Randell Parker, on behalf of Kern County Advocates for Agriculture, filed a protest of PG&E AL 4268-E stating that "CPUC GO 131-D, Section III.B.1 is not applicable in this circumstance in that the larger project CEQA EIR did not adequately review the impacts of this new proposed switching station".

Specifically, Randell Parker cites the following inadequacies with the Kern County FRV Valley Solar Project EIR:

1. EIR Notice of Preparation (NOP) did not include language nor task the analyzers with the job of reviewing the impacts of the switching station.
2. The Air Quality Impact Analysis (Appendix C) does not analyze this additional construction.
3. The Archaeological Survey Report (Appendix E) does not examine impacts of the unknown switching station site.
4. The Biological Analysis done by Quad Knopf (Appendix D), also mandates another analysis if the project footprint will be expanded by building another switching station.
5. The Phase II Environmental Site Assessment Report conducted by URS (Appendix M) also did not consider the new site for the switching station.

Randell Parker further alleges that the surveys were already complete when the County expanded the description of the project to include language about the new switching station. As a result, according to Randell Parker, the proposed new construction project needs its own EIR, and will require evidentiary hearings.

## DISCUSSION

The Commission has reviewed the FRV Valley Solar Project Draft EIR and Final EIR. The Commission finds PG&E facilities were adequately described in the Project Description section of the Draft document; PG&E identified three potential switch yard options and two potential gen-tie options for the Adobe Switching Station Project.

Randell Parker contends that the EIR Notice of Preparation did not include language nor task analyzers with the job of reviewing the impacts of the new

switching station. Commission staff reviewed Appendix A of the Draft EIR and finds that the Initial Study/Notice of Preparation, dated November, 2011 adequately describes the potential Adobe Switching Station site and gen-tie routes. Specifically, Figure 8, "Adobe Site Gen-Tie Route Options" graphically depict the switching stations site options and gen-tie routes.

Randell Parker contends that the Draft EIR does not analyze the air quality impacts associated with the Adobe Switching Station construction.

The Commission finds adequate analysis of air quality impacts attributed to the proposed PG&E switching station facilities within the Final EIR, Section 7.3 Errata to the Draft EIR. Specifically, Page 7-18 of the Final EIR revises page 4.3-51 of the DEIR to read: "Because of the limited nature of the proposed PG&E facility upgrades, the temporary air pollutant emissions associated with construction of the upgrades for Sites 1,2 and 3 (refer to Tables 3-6, 3-7 and 3-8) would not exceed significance thresholds for construction. The proposed PG&E facility upgrades' incremental contribution to construction emissions is an insubstantial fraction of the overall modeled construction emissions and is therefore not cumulatively considerable. Implementation of Mitigation Measures MM 4.3-1 through 4.3-3 would further ensure that construction air quality impacts of PG&E facility upgrades would be minimized. Temporary cumulative impacts from construction associated with the PG&E facility upgrades are therefore considered to be less than significant."

The Randell Parker protest contends that "the Archaeological Survey Report (Appendix E) does not examine impacts of the unknown switching station site, and suggests that if a new switching station is decided upon, further archeological studies must be done"(page 1).

Commission staff reviewed the February 15, 2012 "Supplemental Archaeological Survey Report for Tie-In Lines and Switchyard Locations on the Adobe Solar Project, Kern County", conducted by Pacific Legacy Incorporated. The supplemental survey included a records search and pedestrian field survey totaling 25.8 acres. The supplemental survey report states, "based on the results of the records search, contact with the Native American Heritage Commission (NAHC), and the field survey findings, this study has determined that the proposed Adobe switchyard and tie-line route options will have no impacts to cultural resources and that there is a low likelihood of encountering cultural resources within the proposed Adobe Solar Project area due to the extent of

previous disturbance from agricultural activity and road grading. No further archaeological surveys of the Adobe Solar Project site are required unless Project plans change to include unsurveyed areas, or unless the proposed development or use of Adobe Solar Project facilities should change".

Finally, Randell Parker claims that the biological analysis conducted by Quad Knopf (Appendix D), "mandates another analysis if the project footprint will be expanded by building another switching station. Their concerns of the burrowing owl and other sensitive species in the area prompted this requirement."

Commission Staff reviewed the March 2012, "Biological Analysis of the Adobe Solar Project Site". Quad Knopf evaluated the project site to determine whether there are sensitive biological resources that will be adversely impacted. Three on-site surveys of the switch yard project site were conducted by Quad Knopf Biologists. Pedestrian transect surveys were conducted where needed. Quad Knopf Biologists conducted a reconnaissance-level survey of the portions of the project site proposed for gen-tie line and switch yard developments and within 500 feet of these areas on December 6, 2011. Quad Knopf biologists conducted additional focused surveys throughout the entire project site and within 0.5 miles of its perimeter on February 8, 2012. The primary intent of the survey was to address comments made during an adequacy review of the work previously conducted. Quad Knopf concludes that there are no issues that would preclude the construction but recommend mitigation measures (MM) for avoidance and minimization of biological impacts.

MM Bio-1: Preconstruction surveys shall be performed on the project site where there is potential for nesting raptors and nesting migratory birds to occur. The measure contains additional specifics as to how the preconstruction survey must be conducted.

MM Bio-2: Because there is potential for the San Joaquin Kit Foxes to occur on site, the United States Fish and Wildlife Service's (USFWS) Standardized Recommendations for Protection of the San Joaquin Kit Fox prior or during ground disturbance shall be followed.

MM Bio-3 Standard measures for the protection of burrowing owls provided in Burrowing Owl Consortium's April 1995 Burrowing Owl Survey Protocol and Mitigation Guidelines and California Department of Fish and Game (CDFG) October 17, 1995 Staff Report on Burrowing Owl Mitigation shall be implemented.

In conclusion, it is clear to the Commission that the FRV Valley Solar Project EIR prepared by Kern County was adequate and timely in its analysis of the specific PG&E Adobe Switching Station Project components including the approximate 2.5 acre switching station site and the final gen-tie route. Commission staff is in agreement with PG&E that the switching station is exempt from PTC permitting requirements under GO 131-D Section III.B.1.f and furthermore, that evidentiary hearings are not justified.

## COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

On October 20, 2013, Mr. Randell Parker of Kern County Advocates for Agriculture, filed comments on Draft Resolution E-4619. Mr. Parker claims that the draft resolution "is faulty in that is does not consider Environmental Justice issues, nor the cumulative effects on air quality of the conversion of prime farmland to industrial uses". (Comments p. 1) Specifically, Mr. Parker argues that the cumulative loss of prime farmland will result in the loss agricultural employment and create cumulative air quality impacts by taking farmland out of production.

On October 25, 3013 PG&E replied to Randell Parkers comments on Draft Resolution E-4619. PG&E argues that Mr. Parker and Kern County Advocates for Agriculture, "challenges the Adobe Solar Project rather than PG&E's interconnection facilities and misunderstands the legal scope of the Commission's advice letter process". (Reply Comments, p.1) Additionally, PG&E points out that the "FRV Valley Solar Project EIR considered the impacts from construction and operation of PG&E's interconnection facilities, and determined that all impacts—including air quality and greenhouse impacts—were less than significant." (Reply Comments, p.2)

The Commission has reviewed Mr. Parker's comments on Draft Resolution E-4619 and has determined that the comments have not shown that any of the conditions specified in GO 131-D , Section III.B.2 exists to invalidate the claimed exemption.

## FINDINGS

1. PG&E filed Advice Letter 4268-E on August 2, 2013.
2. PG&E proposes to construct the Adobe Switching Station Project on an approximately 2.5 acre site in Kern County and an associated Gen-Tie route of approximately 1.4 miles.
3. PG&E distributed Notice of Proposed Construction in accordance with General Order 131-D, Section XI. Paragraphs B.1 and B.2.
4. A protest to PG&E Advice Letter 4268 was received on August 12, 2013 from Randell Parker with Kern County Advocates for Agriculture.
5. The protest raised concerns that CPUC General Order 131-D, Section III.B.1 is not applicable because the larger CEQA Project EIR did not adequately review the impacts of the proposed new switching station.
6. PG&E responded to the protest of Randell Parker on August 22, 2013.
7. PG&E correctly followed the notification procedures required in GO 131-D.
8. GO 131-D provides that any person or entity may protest a claim of exemption for one of three reasons: 1) that the utility failed to provide proper notice, 2) that the utility incorrectly applied a GO 131-D exemption, or 3) that any of the conditions exist which are specified in the GO to render the exemption inapplicable.
9. The FRV Valley Solar Project EIR was certified by the Kern County and was found by Commission staff to adequately describe the Adobe Switching Station Project facilities proposed by PG&E.
10. The protest has not shown that PG&E failed to provide notice or incorrectly applied a GO 131-D exemption. Also, the protest has not shown that any of the conditions specified in GO 131-D Section III.B.2 exist to invalidate the claimed exemption.
11. PG&E correctly applied for a GO 131-D exemption in Advice Letter 4268-E.
12. Randell Parker, Kern County Advocates for Agriculture, timely filed comments on Draft Resolution E-4619 on October 20, 2013.

13. PG&E filed reply comments on October 25, 2013.
14. The comments filed by Mr. Parker have not shown that PG&E failed to correctly apply for a GO 131-D exemption in Advice Letter 4268-E.

**THEREFORE IT IS ORDERED THAT:**

1. The request of PG&E as requested in Advice Letter AL 4268-E is approved.
2. The protest of Randell Parker is denied.

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 October 31, 2013; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
CARLA J. PETERMAN
Commissioners