

Decision \_\_\_\_\_

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

In The Matter of the Application of  
San Diego Gas & Electric Company (U902E)  
for a Permit to Construct the Tie-Line 637  
Wood-To-Steel Project.

Application 13-03-003  
(Filed March 13, 2013)

**DECISION GRANTING SAN DIEGO GAS & ELECTRIC COMPANY  
A PERMIT TO CONSTRUCT THE TIE-LINE 637 WOOD-TO-STEEL PROJECT**

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**DECISION GRANTING SAN DIEGO GAS & ELECTRIC COMPANY  
A PERMIT TO CONSTRUCT THE TIE-LINE 637 WOOD-TO-STEEL PROJECT**

**1. Summary**

This decision grants San Diego Gas & Electric Company a permit to construct the Tie-Line 637 Wood-To-Steel Project. This proceeding is closed.

**2. Proposed Project**

San Diego Gas & Electric Company (SDG&E) provides electric power to three million people over a span of two counties and 25 cities. The Tie-Line (TL) 637 Wood-To-Steel Project (Proposed Project) will replace portions of an existing 69 kiloVolt (kV) electric facility within existing SDG&E rights-of-way and substation property. The Proposed Project includes:

- replacing 156 existing wood poles along 14 miles of the TL 637 route with fire-safe steel poles, essentially “fire hardening” the structure;
- reconductering TL 637 with 636 aluminum conductor steel support/alumoweld conductor;
- minor distribution line work and undergrounding of existing distribution circuits to new pole locations; and
- a new fiber optic communication line constructed between the Creelman and Santa Ysabel Substations along TL 637 for communication between the substations, coupled with other minor modifications.

The Proposed Project will not include an increase in voltage or expansion of service area. The Proposed Project will be located in existing utility corridors. The purpose of the Proposed Project is to increase system reliability, specifically to reduce the risk of damage by local conditions and fire events. The Proposed Project will help ensure SDG&E’s service reliability during wildfire events and improve fire safety conditions.

All construction will take place in unincorporated communities in Ramona and Santa Ysabel, San Diego County, California and on lands owned by San Diego County, the U.S. Bureau of Land Management, and the Cleveland National Forest.

### **3. Procedural Background**

On March 13, 2013, SDG&E filed a Permit to Construct (PTC) application with the Commission for the Proposed Project. The application included the Proponent's Environmental Assessment (PEA). On April 4, 2013, SDG&E filed a Declaration of Mailing and Posting, demonstrating compliance with notice requirements under General Order (GO) 131-D, Section XI.A. No protests were filed.

On October 8, 2013, the Commission issued a Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) showing that the Proposed Project, as mitigated, would not have any significant effects on the environment. The draft MND/Initial Study (IS) was subject to a 30-day public review that expired on November 7, 2013. The NOI gave notice of a public meeting to be held on October 17, 2013 in Ramona, California, to take public comment on the Proposed Project.

Nine comment letters were received,<sup>1</sup> from four government agencies, two community groups, and SDG&E. The comments included concerns about minimizing habitat disturbance for the arroyo toad, concerns about analyzing the Proposed Project separately from SDG&E's Master Special Use Permit/Permit to

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<sup>1</sup> The Protect Our Communities Foundation submitted two comments, the second of which was submitted after the close of public review but was accepted as a late comment.

Construct Power Line Replacement Projects Application 12-10-009, and concerns about the viability of data on raptors collected by David Bittner. The comments are addressed in Attachment B of the Final MND/IS.

Energy Division issued the Final MND/IS, including changes that were made based on the comments received, in December 2013. Although a few revisions were made to clarify and revise certain mitigation measures described in the draft MND/IS, the Final MND/IS does not identify any new significant environmental impacts, and does not omit any existing mitigation measures, from those identified in the draft MND/IS.

#### **4. Scope of Issues**

In order to obtain a PTC to construct, modify, alter, or upgrade an electric power line facility, the utility must comply with the provisions of GO 131-D. For the purposes of GO 131-D, a power line facility is a line that operates between 50 and 200 kV. As lead agency for California Environmental Quality Act (CEQA) purposes, the Commission must review whether the Proposed Project complies with CEQA. CEQA requires that the Commission prepare an IS and identify the environmental impacts and any alternatives of the project to avoid or mitigate environmental damage in order to analyze whether they will approve the project or an alternative to the project. (Pub. Resources Code § 21100.)

The Commission will issue a MND if:

1. The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
2. The initial study identifies potentially significant effects, but:
  - a) Revisions in the project plans or proposals made by, or agreed to by, the applicant before a proposed

MND and IS are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and

- b) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment. (Cal. Code of Regulations (CEQA Guidelines) § 15070.)

The draft MND is subject to thirty days of public review and comment.

CEQA requires that, prior to approving the project or a project alternative, the lead agency must consider the MND along with any comments received during the public review process, and that the lead agency adopt the MND only if it finds on the basis of the whole record that there is no substantial evidence that the proposed project will have a significant effect on the environment. The MND must also reflect the lead agency's independent judgment and analysis. (CEQA Guidelines §§ 15074(a)-(b).)

If the California Public Utilities Commission (Commission) adopts an MND, CEQA requires that it also adopt a program for monitoring or reporting on the changes or conditions required to mitigate or avoid significant environmental effects. (CEQA Guidelines § 15074(d).)

The Commission must also ensure that the project complies with the "low cost/no cost" plan to mitigate electromagnetic field (EMF) exposure through low-cost and no-cost means. (*See*, Rulemaking 04-08-020.)

Accordingly, the issues to be determined in this proceeding are:

1. Is there substantial evidence that, with the incorporation of mitigation measures identified in the Mitigation Implementation and Monitoring Plan included in the Final MND/IS, all project-related environmental impacts can be reduced to less than significant levels?

2. Was the Final MND/IS completed in compliance with CEQA, did the Commission review and consider the Final MND/IS prior to approving the project, and does the Final MND/IS reflect the Commission's independent judgment and analysis?
3. Is the proposed project designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?

## **5. Environmental Impacts**

The Proposed Project will have no significant impacts or less-than-significant impacts with respect to aesthetics, agriculture resources, air quality/greenhouse gases, biological resources, cultural resources, geology and soils, greenhouse gases, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, recreation, transportation and traffic, and utilities and services systems. No significant unavoidable adverse impacts were found. There are no areas of controversy or issues to be resolved.

The PEA includes Applicant Proposed Measures (APMs) for mitigation related to construction and operation of the project. The MND's Mitigation Implementation and Monitoring Plan addresses biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, and noise during construction and operation. Some of the required mitigation measures are supplemental to the APMs and others supersede the APMs.

## 6. EMF

The Commission has examined EMF impacts in several previous proceedings.<sup>2</sup> We found the scientific evidence presented in those proceedings was uncertain as to the possible health effects of EMFs and we did not find it appropriate to adopt any related numerical standards. Because there is no agreement among scientists that exposure to EMF creates any potential health risk, and because CEQA does not define or adopt any standards to address the potential health risk impacts of possible exposure to EMFs, the Commission does not consider magnetic fields in the context of CEQA and determination of environmental impacts.

However, recognizing that public concern remains, we do require, pursuant to GO 131-D, Section X.A, that all requests for a PTC include a description of the measures taken or proposed by the utility to reduce the potential for exposure to EMFs generated by the proposed project. We developed an interim policy that requires utilities, among other things, to identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce the potential EMF impacts. The benchmark established for low-cost measures is four percent of the total budgeted project cost that results in an EMF reduction of at least 15 % (as measured at the edge of the utility right-of-way).

SDG&E's application for the Proposed Project includes a Magnetic Field Management Plan specific to TL 637. The Proposed Project involves replacing existing wood poles with steel structures and reconductoring the line. The steel

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<sup>2</sup> See Decision (D.) 06-01-042 and D.93-11-013.

poles will range in height from approximately 43 to 110 feet. The Magnetic Field Management Plan for TL 637 complies with SDG&E's EMF Design Guidelines prepared in accordance with the Commission's EMF decisions in D.93-11-013 and D.06-01-042.

#### **7. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

#### **8. Category and Need for Hearing**

This proceeding was preliminarily categorized as ratesetting, and it was preliminarily determined that hearings were needed. (Resolution ALJ 176-3311.) We confirm the Commission's preliminary determination as to category. Because no protests or responses were filed we conclude that hearings are not needed.

#### **9. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Jeanne M. McKinney is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. With the implementation of the mitigation measures identified in Mitigation Implementation and Monitoring Plan identified in the MND and attached to this decision, the Proposed Project will have no significant impacts or less-than-significant impacts with respect to aesthetics, agriculture resources, air quality/greenhouse gases, biological resources, cultural resources, geology and soils, greenhouse gases, hazards and hazardous materials, hydrology and

water quality, land use and planning, mineral resources, noise, population and housing, recreation, transportation and traffic, and utilities and services systems.

2. The proposed project will improve fire safety conditions along the route of TL 637.

3. The proposed project is designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures.

4. The Final MND/IS has been prepared to ensure that the APMs and MND mitigation measures are properly implemented.

5. The Final MND/IS was completed in compliance with CEQA.

6. The Commission has reviewed and considered the information contained in the Final MND/IS.

7. The Final MND/IS reflects the Commission's independent judgment and analysis.

8. Adoption of the MND will satisfy the requirements of CEQA.

### **Conclusions of Law**

1. The Commission is the lead agency for compliance with the provisions of CEQA.

2. On the basis of the whole record, there is no substantial evidence that the Proposed Project built in compliance with the Mitigation Implementation and Monitoring Plan will have a significant effect on the environment.

3. SDG&E should be granted a permit to construct the Tie-Line 637 Wood-To-Steel Project in conformance with the MND/IS and the Mitigation Implementation and Monitoring Plan attached to this order.

4. The draft Mitigated Negative Declaration/Initial Study and the Final Mitigated Negative Declaration/Initial Study should be identified, marked and received into the record as Reference Exhibits A and B respectively.
5. This proceeding should be categorized as ratesetting.
6. Hearings are not needed.
7. This proceeding should be closed.
8. This decision should be effective immediately.

## O R D E R

### IT IS ORDERED that:

1. San Diego Gas & Electric Company is granted a permit to construct the Tie-Line 637 Wood-To-Steel Project in conformance with the Final Mitigated Negative Declaration/Initial Study and the Mitigation Implementation and Monitoring Plan attached to this order.
2. The Final Mitigated Negative Declaration/Initial Study is adopted.
3. The Mitigation Implementation and Monitoring Plan, included as part of the Final Mitigated Negative Declaration/Initial Study and attached to this order, is adopted.
4. The Permit to Construct is subject to San Diego Gas & Electric Company's compliance with the mitigation measures set forth in the Final Mitigated Negative Declaration/Initial Study and the Mitigation Implementation and Monitoring Plan attached to this order.
5. The Commission's Energy Division may approve requests by San Diego Gas & Electric Company (SDG&E) for minor project refinements which meet the fixed criteria described below and that may be necessary to complete the project due to final engineering or other reasons. Minor project refinements cannot

create a new significant impact or a substantial increase in the severity of a previously identified significant impact, based on the thresholds used in the environmental document. Minor project refinements cannot require new conditions for approval, without which the proposed refinements would result in a new significant impact or a substantial increase in the severity of a previously identified significant impact. Minor project refinements cannot conflict with any mitigation measure or applicable law or policy or trigger an additional permit requirement. Specifically, minor project refinements must not change mitigation measures. Minor project refinements must be located within the geographic boundary of the study area of the Initial Study/Mitigated Negative Declaration, if approved. SDG&E shall seek any other project refinements by a petition to modify the decision

6. The draft Mitigated Negative Declaration/Initial Study and the Final Mitigated Negative Declaration/Initial Study are identified, marked and received into the record as Reference Exhibits A and B respectively.

7. Application 13-03-003 is categorized as ratesetting.

8. Hearings are not needed.

9. Application 13-03-003 is closed.

This order is effective today.

Dated \_\_\_\_\_, 2014, at San Francisco, California.

ATTACHMENT 1

Mitigation Implementation and Monitoring Plan