

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**Agenda ID 12789
RESOLUTION G-3494
March 13, 2014**

R E S O L U T I O N

Resolution G-3494. Pacific Gas and Electric (PG&E) requests approval from the California Public Utilities Commission (CPUC) authorizing PG&E under Public Utilities (PU) Code § 851 to relocate 500 feet of natural gas transmission pipeline and quitclaim this 500 feet section of easement to Samsung Semiconductor, Inc. (Samsung) located in Santa Clara County, California.

PROPOSED OUTCOME: This Resolution approves PG&E's Advice Letter 3442-G seeking authority to relocate 500 feet of gas transmission pipeline and quitclaim this section of the original easement to Samsung.

SAFETY CONSIDERATIONS: PG&E indicated that the proposed transaction will not interfere with the safe operation of PG&E's facilities. All utilities are expected to comply with all federal and state safety regulations, including P U Code section 451.

ESTIMATED COST: None. PG&E does not collect a fee associated with the quitclaim of a portion of the easement and Samsung pays for all relocation costs of the gas pipeline.

By Advice Letter 3442-G, dated December 18, 2013.

SUMMARY

PG&E submitted Advice Letter (AL) 3442-G seeking approval under PU Code Section 851 to relocate 500 feet of natural gas transmission pipeline and quitclaim this 500 feet section of original easement to Samsung located in Santa Clara County.

This Resolution approves PG&E's Advice Letter 3442-G because the transaction is valued at less than \$5 million, the Lead Agency has completed its CEQA

review, and the utility may request approval of the transaction by Advice Letter. (PU Code Sections 851, 853).

BACKGROUND

PU Code § 851 requires public utilities to obtain prior authorization from the Commission before selling, leasing, assigning, or otherwise disposing of or encumbering utility property.

On August 25, 2005, Resolution ALJ - 186 implemented a 24-month pilot program to simplify the disposition of certain types of transactions under PU Code § 851. Participation in the pilot program is optional. Applicants may choose to submit a regular application under section 851 for transactions that qualify for this pilot project.

On August 18, 2011, Resolution ALJ - 272 extended the pilot program for another year (until August 23, 2012). The Commission then adopted General Order (GO) 173 to modify and make permanent the former pilot program regulations for Section 851 Advice Letters.

On December 18, 2013, Advice Letter 3442-G was appropriately filed pursuant to the pilot program to expedite the transactions via Advice Letter that otherwise would be subject to a full PU Code section 851 application.

Samsung will be building a 680,000 square foot, 10-story research and development (R&D) and office building on their property located on the northwest corner of West Tasman Drive and North First Street in the City of San Jose.

PG&E currently owns, operates, and maintains a 24-inch diameter natural gas transmission pipeline, commonly known as L-132, which travels along the southerly and easterly boundary line of the property. PG&E acquired a 15-foot wide easement from the Veiga family for the pipeline by deed dated June 1, 1944. This easement right then later transferred to the Santos family and Samsung acquired this easement right from them.

Samsung's new building will be located 7 feet outside of this easement. A risk assessment report prepared by Arup, dated March 11, 2013, identified potential blast and fire hazards associated with the existing natural gas pipeline, and

proposed to move the pipeline 50 feet from the new building. Therefore, Samsung and the City of San Jose have requested PG&E to relocate a 500 foot section of the pipeline on the property from the original easement to a new location along West Tasman Road within the public road right-of-way. PG&E also entered into an Easement Relocation Agreement with Samsung on August 1, 2013, to accommodate this pipeline relocation. PG&E will install the pipeline in the public road right-of-way pursuant to its franchise agreement with the City of San Jose. PG&E also will quitclaim the 500-foot section of the original easement to Samsung follow the relocation.

NOTICE

Notice of AL 3442-G 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 4 of General Order 96-B.

PROTESTS

Advice Letter AL 3442-G was not protested.

DISCUSSION

PG&E's request to relocate gas pipeline and quitclaim a portion of its easement will be evaluated based on:

- nature of the request
- environmental consequences
- safety and reliability
- cost or savings

Nature of the Request

Samsung plans to construct a R&D and office building on their property. It is reasonable for PG&E to return the easement right of the 500-foot original section to Samsung since PG&E will no longer be able to use this section to install utility facility.

Environmental Consequences

The Gas Pipeline Relocation Project is Categorically Exempt under the California Environmental Quality Act (CEQA) and CPUC as a Responsible Agency adopts the Findings from City of San Jose's Environment Review.

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 whether any potential environmental impacts are likely in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible. In this instance, the Commission is not a Lead Agency, but a Responsible Agency under CEQA with respect to the environmental review of the gas pipeline relocation project with PG&E. This pipeline relocation project qualifies as categorically exempt under Section 15304(f) of the CEQA guidelines, which exempts minor trenching and backfilling where the surface is restored. Additionally, the City of San Jose as the lead agency also has conducted an environmental review under Title 21 of the San Jose Municipal Code, which implemented the CEQA of 1970. The City of San Jose has granted an Addendum to Samsung stating that the entire construction project, including gas pipeline relocation, will not have a significant adverse effect on the environment. The Commission, as a Responsible Agency, adopts City of San Jose's environmental review findings and conclusions.

The Site Development Permit (SDP) issued by the City of San Jose establishes a Mitigation Monitoring or Reporting Program to address adverse effects to air quality, cultural resources, biological resources, and noise with the following prescribed mitigation measures for the entire construction project, as well as the gas pipeline relocation portion of the project.

Air Quality

SDP recommends water and coverings to stabilize dust emission. This gas relocation project also will minimize equipment idling times to 5 minutes, prohibit the use of dry power sweeping, and reduce vehicle speed on unpaved roads to 15 mile per hour.

Cultural Resources

In the event that any significant cultural resources are encountered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the Director of Planning, Building and Code Enforcement would be

notified. A professional archaeologist will assess and make recommendation on the significance of the find. If any find is determined to be significant, the archaeologist will recommend appropriate mitigation measures.

In the event of discovery of any human remains, excavation will stop until the coroner of Santa Clara County can be contacted. If the coroner determines that the remains are not subject to his authority, then he will contact the Native American Heritage Commission to identify the most likely descendants of the deceased. The project archaeologist will file the appropriate reports.

Biological Resources

Construction will be scheduled to avoid the nesting season, which is February through August for most birds. If construction cannot be scheduled between September and January, a qualified biologist will perform pre-construction breeding bird surveys.

Noise

PG&E will reduce ambient sound levels during construction by requiring all construction equipment to have muffled exhaust pipes. It also will require stationary noise sources to be located as far from adjacent land use as possible.

Safety and Reliability

PG&E stated that this relocation project will not interfere with the safe operation of PG&E's facilities, or with the provision of service to PG&E's customers.

Cost or Savings

Samsung will be responsible for all costs associated with the relocation of this 500-foot section of pipeline. PG&E will not collect any fees associated with the quitclaim of the 500-foot original easement.

Summary

The Commission has evaluated this Advice Letter based on the nature of the request, safety, reliability, costs, and CEQA review. We find that results of the above evaluations are satisfactory, the pipeline relocation project is categorically exempt under CEQA guidelines, and the City of San Jose's findings and conclusions represent our independent judgment regarding the environmental impact of the proposed gas relocation project. Therefore, we will approve the easement transfer and gas pipeline relocation requests.

COMMENTS

P.U. 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 CPUC. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

All parties in the proceeding have stipulated to waive the 30-day waiting period required by P.U. Code section 311(g)(1) and the opportunity to file comments on the draft resolution. Accordingly, this matter will be decided by the CPUC on March 13, 2014.

FINDINGS

1. PU Code § 851 requires public utilities to obtain prior authorization from the Commission before selling, leasing, assigning, or otherwise disposing of or encumbering utility property.
2. Resolution ALJ - 186 implemented a 24-month pilot program to simplify the disposition of certain types of transactions under PU Code § 851.
3. The Commission adopted General Order (GO) 173 to modify and make permanent the former pilot program regulations for Section 851 Advice Letters.
4. AB 698 amends Sections 851 and 853 to provide authority for certain Advice Letters to be approved by Executive Director or Division Director.
5. PG&E submitted Advice Letter 3442-G on December 18, 2013, seeking authority pursuant to PU Code section 851 to quitclaim a 500-foot section of original easement to Samsung and relocate 500 feet of gas transmission pipeline.
6. PG&E appropriately filed Advice Letter 3442-G pursuant to our pilot program to expedite certain transactions via Advice Letter that otherwise would be subject to a full PU Code section 851 application (Resolution ALJ-272).
7. PG&E served all required parties in accordance with General Order 96-B, Section IV.
8. Protests to Advice Letter 3442-G were due no later than January 7, 2014. No protests were received.

9. This pipeline relocation project qualifies as categorically exempt under Section 15304(f) of the CEQA guidelines, which exempts minor trenching and backfilling where the surface is restored.
10. The City of San Jose acted as the Lead Agency pursuant to CEQA for the environmental review of the proposed easement transfer and gas pipeline relocation project.
11. The City of San Jose's has examined the entire construction project in detail and all related impacts, and granted an Addendum to Samsung stating that the entire construction project will not have a significant adverse effect on the environment.
12. The CPUC is a Responsible Agency pursuant to CEQA for the environmental review of the easement transfer and gas pipeline relocation with PG&E.
13. The CPUC's decision to grant or deny the relief sought in AL 3442-G requires that the Commission consider the analysis and conclusions of the City of San Jose's environmental review findings, conclusions, and mitigation measures identified therein.
14. The Commission reviewed and considered the City of San Jose's environmental review; including the findings, conclusions, and mitigation measures therein; and determined that its findings and conclusions reflect our independent judgment.
15. We conclude that the City of San Jose's environmental review is competent, comprehensive and have been completed in compliance with CEQA and the Public Resources Code, and should be adopted by the Commission as adequate for our decision-making purposes pursuant to CEQA.
16. 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.
17. Samsung will be responsible for all costs associated with the relocation of this 500-foot section of pipeline.
18. PG&E will quitclaim the 500-foot section of the original easement to Samsung follow the relocation. PG&E will not collect any fees associated with the quitclaim of the 500-foot original easement.
19. PG&E stated that this relocation project will not interfere with the safe operation of PG&E's facilities, or with the provision of service to PG&E's customers.

THEREFORE IT IS ORDERED THAT:

1. The City of San Jose's environmental review for the gas pipeline relocation project is adequate for the Commission's decision-making purposes and is hereby adopted pursuant to CEQA.
2. The request of PG&E to transfer 500 feet of original easement to Samsung and to relocate 500 feet of gas transmission pipeline as requested in Advice Letter AL 3442-G are 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 March 13, 2014, the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director