

**DRAFT**

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

**Item #21 (Rev.1)**

**Agenda ID 13133**

**RESOLUTION E-4667**

**August 14, 2014**

**ENERGY DIVISION**

**R E S O L U T I O N**

Resolution E-4667. Pacific Gas and Electric Company requests Approval of the Becken Lane Road Easement Agreement under Public Utilities Code Section 851.

**PROPOSED OUTCOME:**

- This Resolution adopts the findings and conclusions in El Dorado County's Initial Study/Negative Declaration, pursuant to the California Environmental Quality Act, and approves Pacific Gas and Electric Company's Advice Letter 4340-E, seeking authority to grant to the County of El Dorado, two non-exclusive easements on PG&E property in the Shingle Springs area of El Dorado County, CA.

**SAFETY CONSIDERATIONS:**

- The granting of this easement will not impair utility service or safety, yet it will facilitate public safety because it will allow for the construction of a public road that will provide emergency vehicle access.

**ESTIMATED COST:**

- \$4,400

By Advice Letter 4340-E, dated December 31, 2013.

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**SUMMARY**

This Resolution adopts the findings and conclusions in El Dorado County's Initial Study/Negative Declaration (IS/ND) pursuant to the California Environmental Quality Act (CEQA) and approves Pacific Gas and Electric's (PG&E) Advice Letter 4340-E seeking authority to grant to the County of

El Dorado, two non-exclusive easements on a portion of PG&E's property that supports electrical transmission projects.

PG&E submitted Advice Letter 4340-E to the California Public Utilities Commission (CPUC or Commission), seeking approval, under Public Utilities (P.U.) Code Section 851, of PG&E's consent to grant the County of El Dorado (grantee) two non-exclusive easements (a non-exclusive road/utility easement and a non-exclusive temporary construction easement) on a portion of PG&E's property that supports electric transmission facilities located in the Shingle Springs area of El Dorado County (property). If granted, the easement will facilitate the construction, use and maintenance of a 460 foot long public road. The project will provide emergency vehicle access to a housing project known as the Sunset Lane Apartments. PG&E asserts that these easements will not interfere with PG&E's transmission operations or PG&E's ability to provide utility services to its customers. In addition, granting these easements will not be adverse to the public interest; rather it will provide a public benefit by increasing public safety and allowing for secondary road access for fire officials to a multi-unit housing complex.

Advice Letter 4340-E was filed pursuant to General Order 173. This General Order authorizes utilities to request Commission approval pursuant to PU Code section 851 of certain transactions transferring interests in utility property valued at \$5 million or less.

The CPUC's decision to grant or deny the relief sought in AL 4340-E requires Commission review and adoption of the analysis and conclusions of the El Dorado County's IS/ND, issued for public comment in November 2012, and adopted by the County of El Dorado on December 18, 2012. In its review, conducted pursuant to (CEQA)<sup>1</sup>, the County acted as Lead Agency and concluded that the proposed Becken Lane Road Easement Agreement, and all activities associated with it, would have no significant impacts on the environment. Such a review and adoption is a discretionary decision pursuant to CEQA, and the CPUC will act as a Responsible Agency for compliance with

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

CEQA. This Resolution adopts the conclusions and findings in El Dorado County's IS/ND in accordance with the CEQA Guidelines and the Public Resources Code, and approves the easement agreement between PG&E and El Dorado County.

## **BACKGROUND**

PG&E owns land, buildings, and other facilities in connection with the provision of electric and natural gas services to its customers throughout northern and central California. In the provision of these services, PG&E relies on a portfolio of fee properties, rights-of-way, and facilities to support its electric and gas transmission activities. One such fee property is located in the Shingle Springs area of El Dorado County, which supports PG&E's electric transmission operations. The easements, if granted, will facilitate the construction, use, and maintenance of a public road--approximately 28-feet wide by 460 feet. This project, upon completion, will provide fire and other emergency vehicle road access to a 40-unit housing project constructed adjacent to the easement area.

The property includes: (1) a 10,959 square foot parcel--for the road utility easement; and (2) a 367 square foot parcel--for a temporary construction easement. The land is located on the southwest corner of the intersection of Sunset Lane and Becken Lane in Shingle Springs, El Dorado County. Specifically, the property is identified as El Dorado County Assessor's Parcel No. 090-430-23. The parcel is owned by PG&E and is currently vacant. The land is partially covered by gravel parking lot -- the remaining portion is covered with vegetation.

Grant of the easements will not interfere with PG&E's operations or service to its customers. The terms of the proposed easement prohibits the Grantee from interfering in any way with PG&E's use of the easement areas or the adjacent PG&E property. This prohibition includes any activity that places PG&E's facilities in violation of any provision of Commission General Orders 95, 112E, and 128, or any other legal requirements for operation of utility facilities. The proposed easement agreements further prohibit the Grantee from making use of the easement areas that would be incompatible with PG&E's use of the adjacent property.

PG&E states in the Advice Letter that the proposed easements satisfy Section 851 requirements as they are "not adverse to the public interest." PG&E notes that

“The Commission has repeatedly held that the relevant inquiry in Section 851 proceedings is whether the transaction is adverse to the public interest.” (See, e.g., Universal Marine Corp., 1984, Cal. PUC Lexis 962 \* 3; 14 California Public Utilities Commission (“CPUC”) 2d 644, 646; see also Decision (“D.”) 03-01-084, 2003 Cal. PUC LEXIS 72, \*10. D.89-07-016 and D.01-05-076.)” PG&E continues to note that “... in approving productive compatible uses of utility property such as this easement, the Commission has long recognized that the public interest is served when, as in this request, utility property is used for other productive purposes without interfering with the utility’s operations or affecting services to utility customers. (D.04-07-023, mimeo, p.13, citing D.02-01-058 [2002 Cal. PUC LEXIS 11, \*9-\*10], D.94-06-017, and D.92-07-007.)”

For the above reasons, PG&E asserts that the Commission should approve this Section 851 request to grant the easements relating to this PG&E property, and find that doing so is not adverse to the public interest because it will not impair PG&E’s provision of utility service. Rather, the easement will facilitate the construction of a secondary public road which upon completion will improve public health and safety in the adjacent area.

## **NOTICE**

In accordance with General Order 96-B, Section 4, copies of Advice Letter 4340-E were sent electronically and/or via U.S. mail to parties on the list attached to Advice Letter 4340-E.

## **PROTESTS**

Protests to Advice Letter 4340-E were due no later than January 22, 2014. Advice Letter AL 4340-E was not protested.

## **DISCUSSION**

Staff has reviewed the associated Easement Agreement and finds that it reflects the interest of the public. PG&E and El Dorado County have agreed on the value of the property based on an appraisal report. The easement agreement addressed handling of potential hazards, insurance, and proper uses of the easement.

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 Becken Road Easement Agreement. The Commission, as a Responsible Agency, must adopt the County of El Dorado's findings and conclusions as set out in the IS/ND.

The IS/ND was prepared by El Dorado County pursuant to CEQA evaluated potential environmental impacts of Becken Lane Road Easement Agreement. All the impacts identified in the Negative Declaration were found to be "less than significant" and would not require mitigations.

The IS/ND, (State Clearinghouse Number 2012112033), was circulated to various governmental agencies and departments for comments during the public review period. Notice was given to the property owners within the vicinity of the project site during the public review period. On December 18, 2012, the County adopted the findings and conclusions of the IS/ND.

This Commission has reviewed the County of El Dorado's IS/ND as part of our consideration of whether they have complied with CEQA. Based on that review, we find that the County's IS/ND represents our independent judgment regarding the environmental impact of the proposed project. Therefore, we will adopt the IS/ND and the County's findings and conclusions for the proposed project pursuant to and in compliance with CEQA.

## **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.

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.

No comments were received relating to the draft resolution.

## **FINDINGS**

1. The County of El Dorado acted as the Lead Agency pursuant to CEQA for the environmental review of the Becken Lane Road Easement Agreement project.
2. The County issued an IS/ND for public comment between November 13, 2012 and December 3, 2012.
3. The County's IS/ND examined the project in detail, including the portions affecting PG&E property, and all related impacts.
4. The IS/ND concluded that all impacts of the project, including those on PG&E property, would not result in any significant impacts.
5. On December 18, 2012, the El Dorado County Board of Supervisors adopted the IS/ND for the project.
6. Pacific Gas and Electric Company submitted Advice Letter 4340-E on December 31, 2013, seeking authority pursuant to P.U. Code section 851 to enter into an easement agreement with the County of El Dorado.
7. Advice Letter 4340-E was filed pursuant to General Order 173, which authorizes utilities to request Commission approval pursuant to P.U. Code section 851 of certain transactions transferring interests in utility property valued at \$5 million or less.
8. PG&E served all required parties in accordance with General Order 96-B, Section 4.
9. The deadline for protests to Advice Letter 4340-E was January 22, 2014. No protests were received.
10. This easement agreement would allow the County of El Dorado to install, construct, and use a public road.
11. The CPUC's decision to grant or deny the relief sought in AL 4340-E requires Commission review and adoption of the analysis and conclusions of the Initial Study and Negative Declaration issued December 18, 2012, as well as the findings, and conclusions identified in the Board of Supervisor's Master Report, dated December 18, 2012.
12. The CPUC will act as a Responsible Agency for compliance with CEQA with respect to the environmental review of the Beck Lane Road Easement agreement.

13. We have reviewed and considered the County of El Dorado's IS/ND as well as the Board of Supervisor's Master Report prior to adopting the findings, conclusions therein.
14. We find that the findings and conclusions in El Dorado County's IS/ND as well as the Board of Supervisor's Master Report reflect our independent judgment.
15. We conclude that the County of El Dorado's IS/ND is competent, comprehensive and has been completed in compliance with CEQA and the Public Resources Code.
16. The County of El Dorado's IS/ND as well as the Board of Supervisor's Master Report should be adopted by the Commission as adequate for our decision-making purposes pursuant to CEQA.

**THEREFORE IT IS ORDERED THAT:**

1. The County of El Dorado's IS/ND is adequate for the Commission's decision-making purposes and is hereby adopted pursuant to CEQA Guidelines and the Public Resources Code.
2. The request of PG&E to grant two non-exclusive easements to the County of El Dorado as requested in Advice Letter 4340-E between Pacific Gas and Electric 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 August 14, 2014; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director