

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

Agenda ID 15329
RESOLUTION E-4811
December 15, 2016

R E S O L U T I O N

Resolution E-4811. Pacific Gas & Electric Company requests approval of a Master Agreement and Supplements for work required to interconnect PG&E's transmission system with Caltrain Peninsula Corridor Electrification Project facilities.

PROPOSED OUTCOME:

- Approve PG&E's Tier 3 Advice Letter 4853-E and Supplemental Advice Letter 4853-E-A, which include: a Master Agreement that describes the overall relationship between PG&E and Caltrain's Peninsula Corridor Joint Powers Board (Caltrain or JPB) for transmission system interconnection work required for the Caltrain Peninsula Corridor Electrification Project (the Caltrain Project or the Project); and Supplement #1 to the Master Agreement that authorizes PG&E to complete preliminary design and engineering work.
- Revise PG&E's proposal to submit further Supplements to the Master Agreement as information-only filings and instead, require that anticipated future Supplements to the Master Agreement be filed by Tier 3 Advice Letter pursuant to General Order (GO) 96-B.

SAFETY CONSIDERATIONS:

- All work required to interconnect PG&E's transmission system with Caltrain facilities will conform to all current and applicable laws, Commission regulations, and industry and PG&E safety requirements as discussed in this Resolution and documented the Master Agreement.
- This Resolution addresses contractual agreements for the work required to complete the utility system upgrades necessary to interconnect PG&E transmission system facilities with Caltrain

Project facilities. Specific rail safety requirements and work required to relocate PG&E electric and gas utility facilities (relocation work) are not addressed in Advice Letter 4853-E or Supplemental Advice Letter 4853-E-A and are outside the scope of this Resolution.

ESTIMATED COST:

- All PG&E costs identified in Supplement #1 to the Master Agreement and the Amendment to Supplement #1 will be paid in full by Caltrain. No costs are specified in the Master Agreement.
- Costs that may be allocated to PG&E ratepayers for the interconnection work have not yet been determined and will be the subject of future filings to the Commission.

By Advice Letter 4853-E filed on June 10, 2016 and supplemented by Advice Letter 4853-E-A filed on August 18, 2016.

SUMMARY

With Advice Letter 4853-E, PG&E requests approval of a Master Agreement with Caltrain. PG&E also requests in AL 4853-E that a series of sequentially-numbered Supplements to the Master Agreement will be filed as information-only supplements. PG&E proposed that future supplements not require Commission approval. Supplement #1, which was filed with Advice Letter 4853-E and supplemented by Advice Letter 4853-E-A, establishes that PG&E will perform preliminary engineering work and that Caltrain will pay 100 percent of costs incurred by PG&E for this work. PG&E anticipates that five Supplements to the Master Agreement will be filed covering contractual arrangements for discrete aspects of the Project, but negotiations with Caltrain are still in progress at this time. This Resolution approves PG&E's requested relief but modifies their proposal to file information-only supplements, and instead requires that anticipated future Supplements to the Master Agreement be filed by Tier 3 Advice Letter pursuant to GO 96-B.

BACKGROUND*Caltrain Peninsula Corridor Electrification Project*

The Project is part of the Caltrain Modernization Program, which will electrify and upgrade the performance, efficiency, capacity, safety, and reliability of the Caltrain commuter rail service. Approximately 52 miles of rail would be electrified from the Fourth and King Station in San Francisco to Tamien Station in San Jose. Once the Caltrain rail corridor is electrified, Caltrain will have a mixed fleet of diesel and electric trains in service and, over time, plans to convert the entire fleet to electric trains. The Caltrain Modernization Program is scheduled to be implemented by 2020. The Caltrain Modernization Program will help prepare the rail corridor to accommodate California's high-speed rail service, which is planned to be operational within the corridor by 2029. A blend of Caltrain and high-speed rail services will be provided primarily on shared tracks that are located substantially within the existing Caltrain corridor (Caltrain.com 2016).

Caltrain submitted an Application for Service to PG&E in January 2015 that requested preliminary work associated with the interconnection of two Caltrain traction power substations. One of the Caltrain substations would connect to PG&E's East Grand Substation in South San Francisco and the other would connect to PG&E's FMC Substation in San Jose. Each Caltrain traction power substation will have two 115-kV connections into the 115-kV bus at a PG&E substation. Later in 2015, Caltrain requested that PG&E stop work until a new contract was signed. Subsequent to signing of the Master Agreement and Supplement #1 in April 2016, PG&E's preliminary engineering and design work for Caltrain continued. With Advice Letter 4853-E-A, PG&E submitted an Amendment to Supplement #1 that was executed in August 2016 and increased the authorized amount for Supplement #1 work activities from \$900,000 to \$2.9 million. All Supplement #1 costs would be paid by Caltrain.

Caltrain requested that electric service be available by September 2018 in San Jose to allow for testing. Caltrain requested that electric service be available by March 2019 in South San Francisco. By 2026, the California High Speed Rail Authority plans to interconnect the high-speed rail system to Caltrain's system near Gilroy.

NOTICE

Notice of PG&E Advice Letter 4853-E was made by publication in the Commission's Daily Calendar. PG&E stated that copies of their advice letter were distributed in accordance with Section 4 of GO 96-B to parties shown on a distribution list attached to the Advice Letter 4853-E.

PROTESTS

The advice letter was not protested.

DISCUSSION

1. Two types of agreements were executed for the electrical interconnection work required for the Caltrain Project: a Master Agreement and Supplement #1 to the Master Agreement. The Master Agreement is for work related to the design and extension of PG&E electric transmission facilities to two Caltrain traction power substations. It is intended to govern the overall relationship between PG&E and Caltrain. Individual scopes of work will be addressed in Supplements to the Master Agreement. The Supplements will set forth specific scopes of work, authorized dollar amounts, and various milestones and deliverables. At this time, PG&E anticipates that five Supplements to the Master Agreement will be filed, but negotiations with Caltrain are still in progress.

Supplement #1 to the Master Agreement was filed with Advice Letter 4853-E and an Amendment to Supplement #1 was filed with Advice Letter 4853-E-A. In a data response to Energy Division staff, PG&E stated:

- Supplement #2 to the Master Agreement is expected to address environmental review responsibilities and PG&E oversight and inspection of Caltrain design and construction;
- Supplement #3 and Supplement #4 to the Master Agreement are expected to cover final design, engineering, and construction of the required upgrades to PG&E's two substations; and
- Supplement #5 to the Master Agreement is expected to address PG&E's work required to provide temporary electrical interconnections for test power within FMC Substation in San Jose.

The Master Agreement, Supplement #1 to the Master Agreement, and Amendment to Supplement #1 reasonably set forth Caltrain, PG&E, contractor, consultant, and subcontractor responsibilities with respect to the electrical interconnection work and establish that Caltrain will pay 100 percent of PG&E's costs for the preliminary engineering and design work.

2. Deviations to PG&E's Electric Rules for service extensions were required to complete the Master Agreement. The interconnection work will be reimbursed based on actual costs and not estimated costs. This differs from the utility company standard practices established in Electric Rules adopted by the Commission.¹ The Master Agreement is a negotiated agreement between the parties and is not a standard form agreement. Other deviations required to complete the Master Agreement are summarized as follows: an indemnity provision that protects both parties is included; a stop-work provision is included; the agreement is subject to CPUC approval and may be subject to approval by the Federal Energy Regulatory Commission if the California Independent System Operator assumes operational control over aspects of the required network upgrades; and flowdown terms are included that cover, among other things, contractor safety, PG&E inspection, electrical reliability standards, and document retention and production requirements.

The Master Agreement establishes a series of ratepayer protections, which are summarized in the following section. The deviations to PG&E's Electric Rules for service extensions were properly documented by PG&E and filed for Commission approval. They were necessary and reasonable to accommodate the repayment structure required by Caltrain and service extensions from PG&E's electric transmission facilities.

Summary of Ratepayer Protections

PG&E's cost estimates for the Caltrain Project include, among other items, overhead, payroll taxes, and benefits, and PG&E's cost estimates are not binding on PG&E (Master Agreement Section 4). PG&E will notify Caltrain if cost increases are required, and if approved by Caltrain, such increases would require a Supplement that would be agreed to by both parties. "PG&E may cease work on a task if JPB [Caltrain] does not increase the Authorized Amount for such task

¹ Refer to PG&E electric tariff rules 15 (Section D.2 and D.5) and 16 (Section E.4).

by the time PG&E reaches 90% of the Authorized Amount (except when PG&E believes that the Authorized Amount will be sufficient to complete the task)” (Master Agreement Section 5). PG&E will submit monthly bills to Caltrain for payment within 45 days (Master Agreement Section 13). If at any time Caltrain becomes aware that funding will not be available or has reasonable grounds for believing that funding may not be available, Caltrain will promptly notify PG&E in writing. At that time, the parties will meet and confer to discuss a mutually agreeable resolution, which may include amending the Master Agreement, stopping work, or other steps as appropriate (Master Agreement Section 14).

3. Caltrain will be responsible for fully analyzing environmental impacts of the interconnection work pursuant to the California Environmental Quality Act (CEQA). Caltrain will prepare, at its sole expense, an Addendum to the Caltrain Project’s Final Environmental Impact Report to fully analyze the environmental effects of the construction of facilities to interconnect PG&E’s transmission system with Caltrain facilities (Master Agreement Section 7).

4. The Supplements identified in the Master Agreement require Commission approval. The Master Agreement contemplates that subordinate, Supplements to the Master Agreement would be prepared but does not specify what aspect of the required interconnection work each Supplement would address or how costs would be allocated in each Supplement. In a data response to Energy Division staff, PG&E stated that the parties still need to develop and define the process, criteria, documentation, and data to be used to determine cost allocations (Master Agreement Section 8). At this time, it remains unclear how much PG&E’s ratepayers may be required to pay. An estimate or percentage is not yet available to adequately evaluate potential costs to ratepayers. Therefore, it is reasonable that PG&E be required to submit Supplements to the Master Agreement for approval to the Commission.

In Advice Letter 4853-E, PG&E proposes that future Supplements be submitted as informational filings (i.e., information-only filings).² The Master Agreement

² The term “informational filing” is defined in GO 131-D, which cites to GO 96-A. GO 96-B supersedes GO 96-A in its entirety (CPUC Decision 07-01-024, 2007). The term “information-only filing” is defined in GO 96-B. GO 96-B does not include the term “informational filing.”

states, "The Supplements shall not require CPUC approval, unless the CPUC indicates otherwise when this Agreement is submitted for approval." Because of the uncertainty regarding ratepayer cost allocations, it is not reasonable at this time to adopt PG&E's proposal to submit information-only filings in lieu of the required Tier 3 advice letters for service to government agencies pursuant to GO 96-B, Section 8.2.3, and Section 5.3(8) of the Energy Industry Rules.

COMMENTS

PU 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.

FINDINGS

1. The Master Agreement, Supplement #1 to the Master Agreement, and Amendment to Supplement #1 reasonably set forth Caltrain, PG&E, contractor, consultant, and subcontractor responsibilities with respect to the electrical interconnection work and establish that Caltrain will pay 100 percent of PG&E's costs for preliminary engineering and design work.
2. The deviations to utility-company Rules for service extensions required to complete the Master Agreement, Supplement #1 to the Master Agreement, and the Amendment to Supplement #1 are reasonable.
3. Caltrain will be responsible for fully analyzing environmental impacts of the interconnection work pursuant to CEQA.
4. Supplements to the Master Agreement require Commission approval and should be filed by Tier 3 advice letter consistent with the rules established in GO 96-B. PG&E proposed, instead, to submit information-only filings.

THEREFORE IT IS ORDERED THAT:

1. The Master Agreement, Supplement #1 to the Master Agreement, and the Amendment to Supplement #1 between PG&E and Caltrain's Peninsula Corridor Joint Powers Board submitted with Advice Letter 4853-E and supplemented by Advice Letter 4853-E-A are approved subject to the conditions contained in this Resolution.
2. PG&E's proposal to submit further Supplements to the Master Agreement as information-only filings is denied.
3. Further Supplements to the Master Agreement that are proposed by PG&E will require Commission approval and shall be filed by Tier 3 advice letters pursuant to the requirements of GO 96-B.

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 December 15, 2016; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director