

Decision 10-11-008 November 19, 2010

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

Application of Pacific Gas and Electric Company, a California corporation, for a Permit to Construct the Palermo-East Nicolaus 115kV Reconstruction Project pursuant to General Order 131-D (U39E).

Application 09-02-023  
(Filed February 26, 2009)

**DECISION GRANTING PACIFIC GAS AND ELECTRIC COMPANY  
A PERMIT TO CONSTRUCT THE PALERMO-EAST NICOLAUS 115kV  
RECONSTRUCTION PROJECT**

**1. Summary**

This decision grants Pacific Gas and Electric Company a permit to construct the Palermo-East Nicolaus 115 kilovolt reconstruction project with mitigation identified in the Mitigation Monitoring, Reporting, and Compliance Plan attached to this order. This proceeding is closed.

**2. Proposed Project**

As proposed by Pacific Gas and Electric Company (PG&E), the Palermo-East Nicolaus 115 kilovolt (kV) reconstruction project will reconductor, or replace the wires on, the approximately 40-mile long Palermo-East Nicolaus 115 kV power line between Palermo Substation near Oroville and East Nicolaus Substation south of Marysville. The existing double-circuit tower line carries two individual 115 kV circuits, both of which would be reconducted with new aluminum conductor to increase the capacity of the circuits. In order to support the higher tension loads of the new conductor, the existing steel lattice towers would be replaced with a combination of hybrid tubular steel poles, tubular steel

poles, and lattice steel poles. In addition, a limited number of towers on the adjacent single-circuit line would be replaced for consistency with the spans on the Palermo-East Nicolaus 115 kV power line.

The proposed project would eliminate forecasted capacity overloads, preventing violations of applicable reliability criteria and allowing PG&E to maintain system reliability in the project area.

### **3. Scope of Issues**

Pursuant to General Order (GO) 131-D, in order to issue a permit to construct (PTC), the Commission must find that the project complies with the California Environmental Quality Act (CEQA).<sup>1</sup> CEQA requires the lead agency (the Commission in this case) to conduct a review to identify environmental impacts of the project, and ways to avoid or reduce environmental damage, for consideration in the determination of whether to approve the project or a project alternative. If the initial study shows that there is no substantial evidence that the proposed project may have a significant effect on the environment, or if the initial study identifies potentially significant effects and the project proponent makes or agrees to revisions to the project plan that will reduce all project-related environmental impacts can be reduced to less than significant levels, then the lead agency shall prepare a proposed negative declaration or mitigated negative declaration (MND) subject to public notice and the opportunity for the public review and comment. (CEQA Guidelines §§ 15070-15073.)

CEQA requires that, prior approving the project or a project alternative, the lead agency consider the proposed negative declaration or MND along with

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<sup>1</sup> Public Resources Code Section 21000, *et seq.*

any comments received during the public review process, and that the lead agency adopt the proposed negative declaration or MND only if it finds on the basis of the whole record that there is no substantial evidence that the project will have a significant effect on the environment and that the proposed negative declaration or MND reflects the lead agency's independent judgment and analysis. (CEQA Guidelines § 15074(a)-(b).) If the lead agency adopts a 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).)

In addition, pursuant to GO 131-D and Decision (D.) 06-01-042, the Commission will not certify a project unless its design is in compliance with the Commission's policies governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures.

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

1. Is there no substantial evidence that the project will have a significant effect on the environment?
2. Was the negative declaration or MND completed in compliance with CEQA, did the Commission review and consider it, and does it 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?

#### **4. Procedural Background**

PG&E filed this application on February 26, 2009. On March 16, 2009, PG&E filed a declaration of advertising, posting, and mailing to affected governmental bodies and property owners notice of the application, as required by GO 131-D, Section XI.A. No protests were filed.

On August 3, 2010, the Energy Division circulated a Notice of Intent (NOI) to adopt a MND for the project to 704 agencies, tribes, elected officials, organizations, residents, and other interested persons and entities, and released the Draft MND/Initial Study (IS) for a 30-day public review and comment period. The NOI gave notice of a public meeting to be held on August 19, 2010, to take public comment on the project. The public meeting and the availability of the Draft IS/MND were also announced in the local newspaper.

Five people attended the public meeting, and three made comments raising concerns about the heights of the new and replaced structures, disturbance to farmland, impact on an agricultural airstrip and aircraft operations, clean up and restoration, and impact on levels.

Written comments were received from four public agencies, two individuals, and the applicant, raising similar issues and concerns as those raised at the public meeting as well as concerns and requests for further information regarding the location of the Milliken towers to be replaced, permanent disturbance acreages, potential impacts on riparian habitat, public notification and involvement, and EMFs.

Energy Division responded to all of the comments in the Final MND/IS, which it issued on September 21, 2010.<sup>2</sup> Although a few revisions were made to clarify and revise certain mitigation measures described in the Draft MND/IS, the Final MND does not identify any new significant environmental impacts, and does not omit any existing mitigation measures, from those identified in the Draft MND/IS.

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<sup>2</sup> The Final MND/IS is hereby identified as reference Exhibit A and received into the record of this proceeding.

## **5. Environmental Review**

The MND found that, with the incorporation of mitigation measures identified in the Mitigation Monitoring, Reporting, and Compliance Plan included therein, all project-related environmental impacts can be reduced to less than significant levels.

## **6. EMF**

The Commission has examined EMF impacts in several previous proceedings.<sup>3</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

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<sup>3</sup> See D.06-01-042 and D.93-11-013.

results in an EMF reduction of at least 15 percent (as measured at the edge of the utility right-of-way).

The proposed project will arrange the phases of the power lines for minimum magnetic field level at the edge of the right-of-way. This design complies with PG&E's EMF Design Guidelines prepared in accordance with the Commission's EMF decisions.

### **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. Assignment of Proceeding**

Dian M. Grueneich is the assigned Commissioner and Hallie Yacknin is the assigned administrative law judge in this proceeding.

### **Findings of Fact**

1. With the implementation of the mitigation measures identified in the Mitigation Monitoring, Reporting, and Compliance Plan identified in the MND and attached to this order, all environmental impacts of the Palermo-East Nicolaus 115 kV reconstruction project can be reduced to less than significant levels.

2. The proposed Palermo-East Nicolaus 115 kV reconstruction project includes no-cost and low-cost measures (within the meaning of D.93-11-013, and D.06-01-042) to reduce possible exposure to EMF.

3. The MND was completed in compliance with CEQA.

4. The Commission has reviewed and considered the information contained in the MND.

5. The MND reflects the Commission's independent judgment and analysis.

**Conclusions of Law**

1. PG&E should be granted a permit to construct the Palermo-East Nicolaus 115 kV reconstruction project in conformance with the Mitigation Monitoring, Reporting, and Compliance Plan attached to this order.
2. This proceeding should be closed.
3. This order should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company is granted a Permit to Construct the Palermo-East Nicolaus 115 kilovolt reconstruction project in conformance with the Mitigation Monitoring, Reporting, and Compliance Plan attached to this order.
2. The Mitigation Monitoring Plan, included as part of the Final Mitigated Negative Declaration, is adopted.
3. The final mitigated negative declaration is identified as Exhibit A and admitted into evidence.

4. Application 09-02-023 is closed.

This order is effective today.

Dated November 19, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners