

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



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In The Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV and New Substations With High Side Voltages Exceeding 50kV: The East County Substation Project

Application 09-08-003
(Filed August 10, 2009)

**REPLY BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) ON
THE RULES RELATING TO THE PLANNING AND CONSTRUCTION OF
ELECTRIC PUBLIC UTILITY SUBSTATIONS LOCATED IN CALIFORNIA**

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March 7, 2011

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

In The Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV and New Substations With High Side Voltages Exceeding 50kV: The East County Substation Project

Application 09-04-003
(Filed April 13, 2009)

**REPLY BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) ON
THE RULES RELATING TO THE PLANNING AND CONSTRUCTION OF
ELECTRIC PUBLIC UTILITY SUBSTATIONS LOCATED IN CALIFORNIA**

I. INTRODUCTION

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), General Order (GO) No. 131-D (GO 131-D), and the California Environmental Quality Act (CEQA), San Diego Gas & Electric (SDG&E) respectfully submits the following reply comments in the above-captioned proceeding concerning the February 28, 2011 Opening Brief filed on behalf of Protestant and Party Backcountry Against Dumps (BAD),¹ in accordance with the Administrative Law Judge

¹ The sole protest in this proceeding was filed jointly on September 14, 2009 by Backcountry Against Dumps, The Protect Our Communities Foundation, and the East County Community Action Coalition (collectively "BAD"). The BAD protest was limited to the adequacy of the Proponent's Environmental Assessment (PEA) and did not raise any claim that a Certificate of Public Convenience and Necessity was required for the Project. These claims should therefore be barred as untimely pursuant to GO 131-D, Section XIII and Rule 2.6(e). PHC Transcript at 24:9-11.

(ALJ) Yacknin's oral ruling (the Ruling) at the pre-hearing conference (PHC) held on February 18, 2011.

II. DISCUSSION

A Certificate of Public Convenience and Necessity (CPCN) is not required for the ECO Substation Project, and BAD's opening brief – which improperly puts the cart before the horse – provides no support for its position. First, BAD claim that a CPCN is required because the ECO Substation Project feeder line to the Southwest Powerlink totals approximately 3,065 feet in length. As the Assigned Commissioner recently found in the Southern California Edison Company's (SCE) Red Bluff Substation proceeding, the feeder line is not a "major" transmission line under GO 131-D, Section III.A,² and a CPCN is not required. Rather, a Permit to Construct (PTC) is the discretionary regulatory action applicable here.³

Second, BAD argues that a CPCN is required for the Commission to assess the "need for and alternatives to the ESJ and Tule Wind Project" because these projects are considered as part of the "whole of the action" under the Commission's CEQA evaluation.⁴ The fallacy of this position, of course, is that neither the Energia Sierra Juarez Gen-Tie Project (ESJ) nor the Tule Wind Project is within the Commission's jurisdiction or otherwise subject to the Commission's discretionary action here, i.e., whether or not to approve the ECO Substation Project. GO 131-D guides the Commission's determination of whether a PTC or a CPCN is required for the ECO Substation Project, not CEQA, as BAD wrongly suggests. BAD fails to demonstrate that

² See Application 10-11-012, *Assigned Commissioner's Scoping Memo and Ruling* at 4 (February 25, 2011), stating "[g]iven their relatively limited length and the context of the overall project, the transmission line segments are not major facilities that independently require a CPCN."

³ GO 131-D, Section III.B.

⁴ BAD Opening Brief at 4.

the Commission has any jurisdiction over ESJ or the Tule Wind Project, much less how consideration of the environmental impacts of those projects under CEQA could require a CPCN.

As discussed in more detail in SDG&E's Opening Brief the California Constitution, through Article XII, created and empowered the CPUC with the exclusive jurisdiction to regulate the affairs and operations of public utilities. Regulation of electric public utility activities involve, among other things, the safety, siting, and construction of electric utility facilities. The statutory requirements for obtaining a CPCN are contained in the California Public Utilities Code (Code) Section 1001. Code Section 1001 does not require utilities to apply for CPCNs for substation system extensions within the electric public utility's existing service territory. The Commission first adopted GO 131 in 1970 to define more precisely when an electric public utility must obtain a CPCN pursuant to Code Section 1001. The currently effective GO 131-D, adopted on June 8, 1994 by Decision (D.) No. 94-06-014, requires electric public utilities to obtain PTC's for certain substations, but "[t]he PTC is meant strictly for environmental review, not economic or "needs" review."⁵ Thus, while the regulatory power of the CPUC is quite broad and is derived in large part from the Code, neither GO 131-D nor CEQA can be read so broadly as to lead to absurd results that improperly expand the jurisdiction of the Commission over projects constructed by a non-public utility entity.

Consequently, BAD's attempt to improperly expand the scope and delay these proceedings should be denied.

⁵ See D.94-06-014, 1994 Cal. PUC LEXIS 453; 55 CPUC2d 87 at *33.

i. The ECO Substation Does Not Require a CPCN

BAD argues that a CPCN is required “[b]ecause the ECO Substation Project would involve the construction and operation of a 3,065-foot 500 kV feeder line.”⁶ Administrative Law Judge Yacknin and the Assigned Commissioner, the Honorable Michael Peevey, have recently evaluated this very issue in SCE’s Red Bluff Substation Proceeding (A.10-11-012). In that proceeding, the ALJ and Assigned Commissioner rejected arguments (now also made here) that a CPCN was required for the project on the basis that it includes as a project component a transmission line that would operated at over 200 kV.⁷ In Red Bluff, the Assigned Commissioner evaluated whether “two new parallel 500 kV transmission lines of about 2,500 to 3,500 feet each to loop the substation into the existing Devers-Palo Verde (DPV) 500 kV transmission line (DVPV1), and two parallel 500 kV transmission lines of about 2,500 to 3,500 feet each to loop the new substation into the proposed Devers-Colorado River 500 kV transmission line (DPV2) into the new substation with another two parallel lines of about 2,500 to 3,500 feet each” required a CPCN.⁸ After evaluating the history of the proceedings for GO 131, the Assigned Commissioner found that:

Although the language in GO 131-D and in Decision (D.)94-06-014 which adopted it is ambiguous on this point, the procedural record of D.94-06-014 strongly suggests that CPCNs were not required for substations before the enactment of GO 131-D, and GO 131-D was intended to require only a PTC in order to construct a substation, and only if the substation has a high side voltage of over 50 kV. Thus, the fact that the proposed Red Bluff substation is designed to operate at 200 kV or more does not, in and of itself,

⁶ BAD Opening Brief at 1; *see also id.* at 2, including n.2 (characterizing the ECO Substation feeder line as a “major electric transmission line facility under GO 131-D, Section III.A simply because it is designed to operate at or above 200 kV).

⁷ *See* Application 10-11-012, *Assigned Commissioner’s Scoping Memo and Ruling* at 6 (February 25, 2011).

⁸ *Id.* at 1.

lead to a requirement of a CPCN for this project.⁹

The Assigned Commissioner in Red Bluff further found that:

The more reasonable reconciliation of GO 131-D's provisions exempting substations from CPCN's and requiring CPCNs for over-200 kV transmission lines is to require a CPCN for projects that involve the construction of "major" transmission lines, regardless of whether they also involve the construction of a substation. In this case, in view of the relatively short length of the new transmission line segments and in the context of the overall project, the transmission loop-in lines are not "major" facilities that require a CPCN."¹⁰

The same finding should be made here, and indeed, the case for a PTC here is even more compelling. While the Red Bluff Substation Project "would consist of *two sets* of parallel 500 kV transmission lines of about 2,500 to 3,500 feet each to loop the substation into DVPV1 and DPV2",¹¹ here, the ECO Substation Project would only require "a short feeder line loop of approximately 3,065 foot overall to connect the ECO Substation to the existing 500 kV Southwest Power Line (SWPL)."¹² Thus, the single 3,065 foot ECO Substation Project feeder loop fits squarely within the range of transmission line considered as not "major" in the Red Bluff proceeding and thus does not require a CPCN. (Indeed, the total length of transmission line needed for the ECO Substation Project appears to be less than one third that required for Red Bluff, and does not require the Commission to site new or expand the existing SWPL transmission line

⁹ *Id.* at 4-5; *see also* SDG&E Opening Brief, *passim* (discussing history of GO 131 and substation requirements).

¹⁰ *Id.* at 6.

¹¹ *Id.* at 4.

¹² *See* SDG&E Opening Brief at 3.

corridor.)¹³ Correspondingly, BAD’s argument that a CPCN is required for the ECO Project should equally be rejected.¹⁴

ii. BAD’s Unfounded Interpretation of CEQA Would Constitute an Abuse of Discretion

BAD would have the Commission find that a CPCN is required for the ECO Substation Project simply because (1) CEQA defines the term “project” to include the “whole of the action”, and (2) the Commission’s interpretation of the “whole of the action” for the ECO Substation Project includes review of the ESJ Project and Tule Wind Project as part of the “project” analyzed in the draft Environmental Impact Report / Environmental Impact Statement (EIR/EIS).¹⁵

Not surprisingly, there is no support for BAD’s position in the administrative proceeding for the GO 131-D adoption proceedings or Commission precedent, and BAD cites to none. CEQA does not dictate the type of approval an agency (here, the Commission) must make; rather, it requires agencies to analyze and disclose the environmental impacts that a discretionary approval may cause, as SDG&E points out in its Opening Brief.¹⁶ Put another way, the potential environmental impacts of ECO would

¹³ Contrary to the position set forth in BAD’s Opening Brief, SDG&E is not arguing that there is a “blanket exemption for substation feeder lines” BAD Opening Brief at 2, nor is SDG&E arguing that the ECO Substation Project fits within the minor relocation exemption, or any other listed exemptions. *Id.*; see also SDG&E Opening Brief at 18 (“The Proposed Project does not rely on the CPCN Minor Relocation Exemption”). Rather, SDG&E’s position is that the feeder line is a component of the substation facilities and not a “major” transmission line requiring a CPCN under GO 131-D. It should also be noted that here, the new proposed transmission line from the ECO Substation to the Boulevard Substation is 138 kV, and thus below the 200 kV threshold contained in GO 131-D, Section III.A. SDG&E Opening Brief at 3.

¹⁴ See Red Bluff Scoping Order at 4 (“A CPCN is only required for the construction of “major” electric transmission facilities which are designed to operate at 200 kV or more. (GO 131-D, Section III.A.) . . . Given their relatively limited length, and the context of the overall project, the transmission line segments are not major facilities that independently require a CPCN. However, construction of the new 500/220 kV substation requires a PTC pursuant to GO 131-D, Section III.B.”).

¹⁵ See BAD Opening Brief at 3-4.

¹⁶ See SDG&E Opening Brief at 15, n.27.

be the same regardless of whether the Commission approved the project through a PTC or a CPCN. Indeed, BAD’s argument would upend the Commission’s standard pattern and practice, which has consistently required PTCs for substations under the circumstances here, supported by either a mitigated negative declaration or an environmental impact report.¹⁷

- **The “Whole of the Action” Under CEQA Does Not Define Agency Jurisdiction**

CEQA generally requires that, before an agency carries out or approves a discretionary project, the agency first assess the project’s potential environmental effects.¹⁸ CEQA and its implementing administrative regulations (CEQA Guidelines)¹⁹ “establish a three-tier process to ensure that public agencies inform their decisions with environmental considerations.”²⁰ As explained by the California Supreme Court in *Muzzy Ranch Co. v. Solano County Airport Land Use Com.*, (2007) 41 Cal. 4th 372, “the first tier is jurisdictional, requiring that an agency conduct a preliminary review to determine whether an activity is subject to CEQA.”²¹ The second tier concerns exemptions from CEQA review and, if a project does not fall within an exemption, an initial study to determine if the project may have a significant effect on the environment

¹⁷ See Exhibit 1 (attached) (chart outlining current substation projects requiring a PTC and demonstrating that scope of CEQA review varies on a case-by-case basis). CEQA has no relevance or bearing on the threshold regulatory inquiry of whether a PTC or a CPCN is required under GO 131-D.

¹⁸ CEQA §§21065, 21080(a), 21100, 21151; CEQA Guidelines §15357.

¹⁹ The regulations for the implementation of CEQA are authorized by the Legislature (Pub. Resources Code, § 21083), codified in title 14, section 15000 *et seq.* of the California Code of Regulations, and “prescribed by the Secretary for Resources to be followed by all state and local agencies in California in the implementation of [CEQA].” (CEQA Guidelines, § 15000.) Except where they are clearly unauthorized or erroneous, courts accord the CEQA Guidelines great weight in interpreting CEQA. (*Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553, 564, fn. 3.)

²⁰ *Muzzy Ranch Co. v. Solano County Airport Land Use Com.*, (2007) 41 Cal.4th 372, 379 (citing *No Oil, Inc. v. City of Los Angeles*, (1974) 13 Cal.3d 68, 74).

²¹ *Id.* at 380 (citing CEQA Guidelines, §15060; see Pub. Resources Code, §21065.).

and whether a “negative declaration” may be prepared.²² CEQA’s third tier applies if the agency determines that a project may cause a significant effect on the environment, in which case the agency must ensure that a full environmental impact report is prepared on the proposed project.²³ BAD’s argument would revise the environmental review process under CEQA to establish a redundant *fourth* tier that requires reconsideration of tier *one* after tier *three* has been completed. There is no support for this interpretation of CEQA, which would be rejected as an abuse of discretion.

An EIR is an informational document; nothing more, nothing less. Under CEQA, “The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.”²⁴ “An EIR is an informational document which will inform public agency decision makers and the public generally of the significant effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.”²⁵ Importantly, the EIR does not control the agency’s exercise of discretion.²⁶

Consistent with these limitations, the California Supreme has rejected the argument that CEQA can or should be used to expand the scope of an agency’s jurisdiction, as BAD argues here. In *Sierra Club v. California Coastal Commission*,

²² *Id.* at 380-381.

²³ *Id.* at 380-381. *See* CEQA Guidelines, § 15063, subd. (b)(1); *see also* Pub. Resources Code, §§ 21100, 21151; CEQA Guidelines, §15080 *et seq.*

²⁴ Pub. Res. Code §21002.1(a); *see also* CEQA Guidelines §15121(a).

²⁵ CEQA Guidelines §15121(a).

²⁶ CEQA Guidelines §15121(b).

(2005) 35 Cal.4th 839, the California Supreme Court reviewed CEQA §21004²⁷ to reject an attempt to use CEQA to expand the California Coastal Commission’s jurisdiction over a project that, “as a whole”, was located both inside and outside the coastal zone.²⁸ The Court expressly rejected the argument that the Coastal Commission’s obligation under CEQA to disclose and publicly review the effects of the “whole project” should expand the Coastal Commission’s jurisdiction to the residences located outside of the coastal zone. The Court found:

Contrary to Sierra Club’s assertion, nothing in CEQA authorizes or requires the Commission, notwithstanding its finding that proposed development inside the coastal zone is in conformity with the Coastal Act, to deny a permit request for that development based on the impacts within the coastal zone of proposed development outside the coastal zone. On the contrary, several provisions of CEQA preclude us from using that act to expand the Commission’s authority beyond the limits set forth in the Coastal Act.²⁹

Indeed, the Court found that the Legislature enacted CEQA Section 21004 to clarify that CEQA did not confer on public agencies independent authority beyond that otherwise provided to the agency by law. The Court held:

Rather, [CEQA’s] provisions ... are intended to be used in conjunction with discretionary powers granted to a public agency by other law in order to achieve the objective of mitigating or avoiding significant effects on the environment when it is feasible to do so. ... In order to fulfill [CEQA’s] requirement [that feasible mitigating actions be taken], a public agency is required to select from the various powers which have been conferred upon it by other law, those which it determines may be appropriately and legally exercised” (Stats. 1982, ch. 1438, § 4, p. 5484, italics added.) As these comments demonstrate, the Legislature passed section 21004 to preclude us from doing precisely what Sierra Club’s [sic]

²⁷ California Public Resources Code §21004 provides that “[i]n mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than” CEQA.

²⁸ The majority of the project – including the residences – were located outside of the coastal zone and therefore outside of the Coastal Commission’s jurisdiction. Within the coastal zone, the project included an access road, drainage and other infrastructure improvements, and a park.

²⁹ *Sierra Club v. California Coastal Com.*, (2005) 35 Cal.4th 839, 859.

now asks us to do: use CEQA as tool to expand the Commission's authority beyond the Coastal Act's express limits.³⁰

The same holds true here. Neither the Tule Project nor the ESJ project is within the Commission's jurisdiction, and the fact that the Commission conservatively included these projects within the "whole of the action" does not require the Commission to issue a CPCN.

The only legal support BAD cites for its argument is *Tuolumne County Citizens for Responsible Growth v. City of Sonora* (2007) 155 Cal.App. 4th 1214 (*Tuolumne County*).³¹ However, the project at issue and the procedural posture in *Tuolumne County* bear no resemblance to the ECO Substation Project. In *Tuolumne County*, the City prepared a mitigated negative declaration (rather than a full-blown EIR) for the construction of a home improvement center. The home improvement center was conditioned upon completion of a road realignment, the effects of which were not considered in the mitigated negative declaration. The Court rejected this approach and determined that the home improvement center project and the road realignment – both of which were under the City's jurisdiction – constituted a single CEQA project.

Tuolumne County does not stand for the proposition that all aspects of the "whole of the action" under CEQA must be assessed in terms of purpose and need (or overriding

³⁰ See *Sierra Club v. California Coastal Com.*, (2005) 35 Cal.4th 839, 859; see also *Mountain Lion Foundation v. Fish & Game Com.*, (1997) 16 Cal.4th 105, 117 ("This provision strongly suggests the Legislature intended CEQA to apply to all public agencies undertaking discretionary projects and to the fullest extent possible, even if the agency's discretion to comply with all of CEQA's requirements may be constrained by the substantive provisions of the law governing the public agency."); *City of Marina v. Board of Trustees of California State University*, (2006) 39 Cal.4th 341, 367 ("Certainly the Trustees may not enter the land of others to widen roads and lay sewer pipe; CEQA gives the Trustees no such power." (citing Pub. Resources Code, § 21004)).

³¹ BAD Opening Brief at 4.

considerations under CEQA) or alternatives.³² In fact, the case is substantively silent on issues of purpose and need, overriding considerations and alternatives because the document in question was a mitigated negative declaration.³³

Further, *Tuolumne County* does not support the argument that the ESJ Project and Tule Wind Project should be considered part of the ECO Substation Project based on the facts. To illustrate, in concluding that the “whole of the action” of the home improvement project should have included the road realignment, the court relied heavily on the fact that the road realignment was a *condition of approval* of the home improvement center project and the fact that both activities featured the *same project proponent*. In contrast, neither the ESJ Project nor the Tule Wind Project is a condition of approval of the ECO Substation Project, both in fact are separate projects from the ECO Substation Project, SDG&E is not constructing either the ESJ or Tule project, and as currently contemplated, neither ESJ nor Tule are within the Commission’s jurisdiction.

Moreover, the relief granted in *Tuolumne County* does not support BAD’s argument that the scope of the Commission’s discretionary action should be expanded from a PTC to a CPCN. In *Tuolumne County*, the Court directed the City to set aside its approval of the project and the mitigated negative declaration and required that the City generate appropriate environmental review documents based on an environmental

³² See BAD Opening Brief at 4.

³³ Under CEQA, overriding considerations and alternatives do not apply in the context of a mitigated negative declaration. Consequently, the decision does not discuss these items.

evaluation of the entire CEQA “project”.³⁴ In short, the court compelled additional environmental review; it did not expand the scope of the City’s discretionary action or jurisdiction over the project, as BAD requests here.

For the ECO Substation Project, there is no question that the PTC is a “project” under CEQA and that environmental review is triggered. In fact, the CEQA process is currently in its final stage. The comment period on the Draft EIR/EIS has now closed and the next step is for the Commission to prepare a Final EIR/EIS and consider whether to approve the ECO Substation Project in light of any significant environmental impacts that may be associated with it as part of the PTC proceeding now underway.

III. PROCEDURAL REQUIREMENTS

a. Need for Hearings

SDG&E has provided ample information, analysis and documentation in this proceeding that provide the Commission with a sufficient record upon which to grant the relief requested by SDG&E on an *ex parte* basis. No evidentiary hearings are required for approval of this Application. Therefore, SDG&E respectfully requests that the relief requested in this Application be provided on an *ex parte* basis as provided for in G.O. 131-D, Section IX.B.6.

b. Issues to be Considered

The issues to be considered are described in this Application, PEA and the accompanying documents. Based on the PEA, SDG&E believes the ECO Substation

³⁴ In that case, “piecemealing” the two projects may have resulted in an understatement of the potential impacts of the “whole of the action”, which could have required a full-blown EIR instead of a Mitigated Negative Declaration. In contrast, the ECO Draft EIR/EIS took an expansive view of what constitutes the “whole of the action”, and the Commission has prepared the most robust analysis available under CEQA. Consequently there is no legitimate claim that the Commission has engaged in “piecemealing” the project in order to avoid environmental review. BAD’s suggestion that a CPCN is required to avoid “piecemealing” is frivolous.

Project will not have a significant adverse impact on the environment. These issues are properly addressed in the course of the joint environmental review process under CEQA and the National Environmental Policy Act (NEPA) and preparation of the EIR/EIS. Upon completion of the Final EIR/EIS, the Energy Division should submit it to the ALJ for admission into the evidentiary record and review and consideration by the Commission. No further evidence is needed on these issues. Therefore, SDG&E requests that the Commission issue a decision within the time limits prescribed by Cal. Gov. Code § 65920 *et seq.* (Permit Streamlining Act) as provided for in GO 131-D, Section IX.B.6.

iii. Proposed Schedule

This proceeding involves the Commission's: (1) environmental review of the Proposed Project in compliance with CEQA (Public Resources Code Section 21100 *et seq.*) and GO 131-D; and (2) issuance of a PTC authorizing SDG&E to construct the proposed ECO Substation Project. SDG&E has reviewed the procedural schedule sent via email by ALJ Yacknin on March 7, 2011. If the ALJ and Assigned Commissioner determine to take additional evidence, SDG&E concurs with the schedule proposed by ALJ Yacknin (e.g., all parties direct testimony to be served by March 28, 2011; all parties rebuttal testimony (if any) to be served by April 7, 2011; and a hearing to be set shortly thereafter (if any). If additional evidence is taken, SDG&E agrees that it should be allowed the opportunity to provide testimony in rebuttal to the other parties' rebuttal testimony, and requests a short period of time (seven days) to provide such rebuttal testimony, consistent with the procedures of recent Scoping Orders issued by the Assigned Commissioner.

Additionally, ALJ Yacknin’s email acknowledges that parties may request the opportunity to supplement their evidentiary showings on three issues upon which evidence will be allowed (EMF compliance, overriding considerations, and claims that the environmentally superior alternative is infeasible). SDG&E requests that no such supplementation be allowed unless either party requests the opportunity to supplement their evidentiary showings within five days of the issuance of the Final EIR/EIS. In this regard, SDG&E proposes the following schedule for any supplementation of the evidentiary showings:

<u>ACTION</u>	<u>DATE</u>
Final EIR/EIS Issued (tentative date)	May 1, 2011
Concurrent Opening Briefs (if requested within 5 days of the issuance of the Final EIR/EIS) ³⁵	June 1, 2011 or 30 days after issuance of Final EIR/EIS, whichever is later
Concurrent Reply Briefs (if requested within 5 days of the issuance of the Final EIR/EIS)	June 15, 2011 or 45 days after issuance of Final EIR/EIS, whichever is later
Proposed Decision Issued	August 2011
<i>Ex Parte</i> Decision Issued. Final CEQA Document Certified.	September 2011

IV. CONCLUSION

In view of the foregoing and SDG&E’s Opening Comments, SDG&E urges the Commission (1) accept its application for a Permit to Construct the ECO Substation Project, pursuant to General Order (GO) 131-D; (2) review and approve the ECO Substation Project in compliance with the CEQA and prepare and certify a final

³⁵ If no supplemental briefing is required, SDG&E requests that the proceedings move immediately to the issuance of a Proposed Decision.

environmental impact report regarding the potential environmental impacts of the project;
(3) issue an expedited *ex parte* decision granting SDG&E a Permit to Construct the East
County Substation Project, as described in this application and the supporting documents;
and (4) allow briefing only to the limited extent required to satisfy the Commission’s
“substantial evidence” burden under CEQA and to address the Electromagnetic Field
issues raised in the protest.

Dated in San Diego, California, this 7th day of March, 2011.

Respectfully submitted,

By: /s/ Allen K. Trial
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EXHIBIT 1

California Public Utilities Commission Current Substation Projects (Undergoing Environmental Review or Monitoring)

Sources:

- California Public Utilities Commission, *Current Projects*, <http://www.cpuc.ca.gov/PUC/energy/Environment/Current+Projects/> (last modified Dec. 10, 2010).
- California Public Utilities Commission, *Red Bluff Substation Project Proceedings*, <http://docs.cpuc.ca.gov/published/proceedings/A1011012.htm#decisions> (last visited Mar. 4, 2011).

Abbreviations:

- BLM = Bureau of Land Management
- CPUC = California Public Utilities Commission
- EIR = Environmental Impact Report
- EIS = Environmental Impact Statement
- MND = Mitigated Negative Declaration
- PTC = Permit to Construct

Substation	CPUC Application	Environmental Review Document	Status
Pacific Gas & Electric Company			
1.	Seventh Standard Substation Project (A.09-03-004)	PTC	MND
	http://www.cpuc.ca.gov/Environment/info/aspen/seventhstandard/seventhstandard.htm		
2.	Windsor Substation Project (A.10-04-024)	PTC	MND
	http://www.cpuc.ca.gov/Environment/info/aspen/windsorsub/windsorsub.htm		

Substation	CPUC Application	Environmental Review Document	Status
PacifiCorp			
3. PacifiCorp - Morrison Creek Substation Project (A.07-07-018)	PTC	MND	Approved 03/13/08.
http://www.cpuc.ca.gov/Environment/info/esa/morrisoncreek/morrison.html			
San Diego Gas & Electric Company			
4. East County Substation Project (A.09-08-003)	PTC	EIR/EIS	Comments on Draft EIR/EIS were due 03/04/11.
http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/ECOSUB.htm			
5. South Bay Substation Relocation Project (A.10-06-007)	PTC	MND	Draft MND in preparation.
http://www.cpuc.ca.gov/environment/info/dudek/sbsrp/SouthBaySub.htm			
Southern California Edison Company			
6. Kimball Substation Project (A.06-12-032)	PTC	MND	Approved 07/30/09.
http://www.cpuc.ca.gov/Environment/info/hdrinc/KimballSubstationProjectHome.htm			
7. Lakeview Substation Project (A.10-098-016)	PTC	EIR	Anticipated release date of July 2011 for Draft EIR.
http://www.cpuc.ca.gov/Environment/info/esa/lakeview/index.html			
8. Mascot Substation Project (A.09-11-020)	PTC	MND	Approved 12/16/10.
http://www.cpuc.ca.gov/Environment/info/esa/mascot/mascot.html			

	Substation	CPUC Application	Environmental Review Document	Status
9.	Presidential Substation Project (A.08-12-023)	PTC	EIR	Draft EIR in preparation.
	http://www.cpuc.ca.gov/Environment/info/esa/presidentialsubstation/index.html			
10	Red Bluff Substation Project (A.10-11-012)	PTC	EIS	BLM has circulated the Draft EIS for the Desert Sunlight Solar Farm for public comment. The project covered by the Draft EIS includes the Red Bluff Substation Project.
	http://docs.cpuc.ca.gov/published/proceedings/A1011012.htm#decisions			
	http://www.blm.gov/ca/st/en/fo/palmsprings/Solar_Projects/Desert_Sunlight.html			
11	Ritter Ranch Substation Project (A.07-05-036)	PTC	MND	Approved 02/14/08.
	http://www.cpuc.ca.gov/Environment/info/millerbrooks/ritterranch.htm			
12	Riverway Substation Project (A.06-06-004)	PTC	MND	Approved 09/06/07.
	http://www.cpuc.ca.gov/Environment/info/aspen/riverwaysub/riverwaysub.htm			
13	Triton Substation Project (A.08-11-019)	PTC	MND	Approved 09/23/10.
	http://www.cpuc.ca.gov/Environment/info/ene/triton/Triton.html			

Substation	CPUC Application	Environmental Review Document	Status
14 Valley-Ivyglen 115 kV Transmission Project & Fogarty Substation Project (A.07-01-031 & A.07-04-028)	PTC	EIR	Approved 08/17/10.
http://www.cpuc.ca.gov/Environment/info/ene/ivyglen/ivyglen.html			

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true copy of the foregoing **REPLY BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) ON THE RULES RELATING TO THE PLANNING AND CONSTRUCTION OF ELECTRIC PUBLIC UTILITY SUBSTATIONS LOCATED IN CALIFORNIA** on each party named in the official service list for proceeding **A.09-08-003** by electronic service, and by U.S. Mail to those parties who have not provided an electronic address.

Copies were also sent via Federal Express to Commissioner Michael R. Peevey and to Administrative Law Judge Hallie Yacknin.

Executed this 7th day of March 2011 at San Diego, California.

/s/ Jenny Norin
Jenny Norin



CALIFORNIA PUBLIC UTILITIES COMMISSION Service Lists

PROCEEDING: A0908003 - SDG&E - TO CONSTRUCT
FILER: SAN DIEGO GAS & ELECTRIC COMPANY
LIST NAME: LIST
LAST CHANGED: MARCH 2, 2011

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