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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 Santa Cruz 115 Kilovolt Reinforcement Project Pursuant to General Order 131-D (U39E).	**A.12-01-012** (Filed January 25, 2012)

PROTEST OF BRITT L. HASELTON, ESQ. AND JOSEPH G. HASELTON, ESQ. TO APPLICATION 12-01-012

Britt L. Haselton, Esq.
Joseph G. Haselton, Esq.
2425 Porter Street, Suite 14
Soquel, CA 95073
Telephone: 831-475-4679
Facsimile: 831-462-0724
Email:brittwood5@aol.com

March 5, 2012

432285

HASELTON
& HASELTON
ATTORNEYS AT LAW

2425 Porter Street, Suite 14
Soquel, California 95073
Telephone: 831.475.4679
Facsimile: 831.462.0724

750 Menlo Avenue, Suite 200
Menlo Park, California 94025
Telephone: 650.327.1150

Britt L. Haselton, Esq.
Joseph G. Haselton, Esq.

March 5, 2012

California Public Utilities Commission
Docket Office
505 Van Ness Avenue, Room 2001
San Francisco, CA 94102

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RE : Santa Cruz 115 kV Reinforcement Project
Application Number : A.12-01-012
APN : 108-051-17

Dear Sir/Madam :

The following constitutes grounds for a protest on the above project necessitating a public hearing. This project is a substantial increase to the lines already present in our community of Corralitos and as such warrants a full-scale public hearing.

We are very distressed and concerned about the scope of the project proposed which will detrimentally affect our property, health and lives. Apparently, P.G. & E. wishes to double the size of the lines directly adjacent to our home from three to six. As the tower runs within about 200 feet or less from our front door, this is simply unacceptable. The current pole and lines are quite visible and audible from our front driveway and all the windows facing east on the east side of our home. To have this line doubled would be unsightly, unhealthy and devalue our home significantly possibly completely.

Additionally, there is a strong concern about the increased risk of fire danger from a power line this size. We live on a very windy ridge with many trees nearby, some of them Eucalyptus and thus limbs and bark blow around quite often and could cause a spark and fire which would endanger our property, our neighbors and the whole community of Corralitos which is located quite close. Also, if a line of this magnitude were to fall, the risk of fire so close to many homes is unacceptable. We have two children, as does my brother also located nearby on a property where the transmission line would run. My elderly parents also live next-door and own property where the line would be near them. Also, we have 2 horses and other animals, which could be trapped by a fire originating on our property. There are other horse farms within close proximity to the lines.

The current easement would never contemplate a project on this scale. The current easement doubtfully covers even the large transmission line, which was placed there after the easement was created but it definitely would not encompass the new proposed reinforcement project. That would be a significant increase and overburdening of the permitted easement. Additionally, my parents and brother, Dr. and Mrs. Douglas A. Liddicoat and Mr. and Mrs. Brian D. Liddicoat on the two adjacent parcels south of ours feel similarly and will deny permission for such an increased use of the easement.

The law is quite emphatic in this area :

The owner of an easement cannot change or increase the use of the easement in any manner that imposes a new or greater burden on the servient tenement without the consent of the servient owner. *Smith v. Rock Creek Water Corp.* 93 Cal. App. 2d 49, 52 (1949). An unreasonable increase in the burden on the servient tenement resulting from an increase or change in the use of an easement is called a « surcharge. »

Further, an unreasonable increase of the burden may ripen into a prescriptive right and is a nuisance that can be enjoined by the owner of the servient tenenment. *Joseph v. Ager* 108 Cal. 517, 520 (1895). A material increase in the use also may result in the forfeiture or extinguishment of the easement. Thus, while PG & E may have a doubtful right to repair and maintain the current line if there is a valid recorded easement, they certainly do not have the right to arbitrarily vastly increase the scope of the easement.

I have recently been made aware by a PG & E employee that there are other transmission lines which could be increased besides ours and for us, that would be the best solution all around. Also, P.G. & E. initially proposed moving the tower which is directly adjacent to our driveway down the hill many feet but they have not met with me to indicate exactly where the new pole would be situated or if any trees, currently acting as a screen of our home from the road would have to be removed or if it is even possible. In any event, if the project is to go forward we must insist on moving the pole as far as possible away from our home and compensation for the extreme devaluation to our home such an increase in use would contemplate.

A local Real Estate Broker and Agent have indicated that the home could possibly lose all its value if the project were completed. For our refinance, we have had a recent appraisal that valued the home at $1,400,000.00 and this is a very low appraisal, about 1 million lower than previously valued. Another appraiser, Brian Nicholson, assures us that the home would definitely be devalued by 10% which brings the devaluation to an estimated $140,000.000. Thus, the amount of required consideration to compensate us for the irreparable devaluation to our property should the project be allowed to go forward would be in the range of $140,000.00 to $1.4 million. As such, we are prepared to fully oppose the project and request the CPUC hold public hearings as will Brian and Zenaida Liddicoat and Marilyn and Douglas Liddicoat. We will formally state our objections at all hearings and protest the project locally as well.

We therefore request an evidentiary hearing on this project where we will present the above grievances and evidence thereto and believe that the project should be denied and this and other bases.

We appreciate your prompt attention to this matter.

Sincerely yours,

Britt L. Haselton, Esq.
Haselton & Haselton
Attorneys at Law

Joseph G. Haselton, Esq.
Haselton & Haselton
Attorneys at Law

C: Matthew Fogelson, Law Department
Pacific Gas and Electric Company