

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

ENERGY DIVISION

RESOLUTION E-4245

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

Resolution E-4245. San Diego Gas & Electric Company (SDG&E). This Executive Director Action Resolution finds that SDG&E Advice Letter 2030-E, notifying the Commission of the proposed construction of Shadowridge Transmission Enhancement Project, is exempt from the requirements to obtain a Permit to Construct ("PTC Requirements") pursuant to General Order 131-D ("GO 131-D"), Section III, Subsection B.1.g. ("Exemption g."); and dismisses the protests submitted to the Commission because the facts claimed in the protests do not support a finding that the exception criteria contained in GO 131-D, Subsection B.2.a-c. exists.

By Advice Letter 2030-E. Filed on October 8, 2008.

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**SUMMARY**

This Executive Director Action Resolution finds that SDGE Advice Letter 2030-E, notifying the Commission of the proposed construction of Shadowridge Transmission Enhancement Project, is exempt from the requirements to obtain a Permit to Construct ("PTC Requirements") pursuant to General Order 131-D ("GO 131-D"), Section III, Subsection B.1.g. ("Exemption g."); and dismisses the protests submitted to the Commission because the facts claimed in the protests do not support a finding that the exception criteria contained in GO 131-D, Subsection B.2.a-c. exists. This Resolution is effective immediately.

**BACKGROUND**

On October 8, 2008, SDG&E filed Advice Letter 2030-E. Protests or comments were due to the Commission on October 28, 2008; four protests were filed.

Pursuant to General Order (G.O.) 131-D, Section XI, Subsection B.4, SDG&E submitted a notice of construction of the Shadowridge Transmission

Enhancement Project (STEP) from the Shadowridge Substation located in the City of Vista to Meadowlark Junction in the City of San Marcos. The project is located in the cities of Vista, Carlsbad, San Marcos, and the County of San Diego.

The proposed project will construct a new 138kV loop circuit (TL 13825), approximately four miles long, from the Meadowlark Junction into the existing Shadowridge Substation. The new double circuit 138kV line will be constructed on approximately 25 new steel tubular galvanized poles mounted on concrete foundations. This new line replaces an existing 138kV single circuit wood pole line, which will be removed after the new line is constructed and energized. Upgrades at the Shadowridge Substation will include the installation of a new circuit breaker within the substation fence.

The proposed project will create a new 138 kV loop circuit (TL 13825) from the Meadowlark Junction into the exiting Shadowridge Substation constructed on approximately 25 new steel tubular galvanized poles mounted on concrete foundations. Approximately 25 new structures will replace the 32 structures supporting the existing line. A total of approximately 60 wood poles and one steel lattice tower will be removed. The new poles will be an average of 25 feet higher (averaging approximately 84 feet tall) than the existing double-pole wood H-frame structures and single wood poles being replaced (averaging approximately 59 feet tall), depending on the span length (distance between poles). Each new structure is designed to support two electric transmission circuits and one fiber optic wire. The existing TL 13825 between Shadowridge Substation and Meadowlark Junction is a 138 kV single circuit transmission line built on H-frame (two-pole) wood structures.

TL13825 in its current configuration is a 3-terminal tie line connecting the existing Batiquitos, Shadowridge, and Chicarita Substations. The proposed project will reconfigure the three terminal lines by opening the tap at Meadowlark Junction to create a two new 2-terminal 138 kV circuits. One circuit (TL13825) will connect Shadowridge to Batiquitos Substation. The other circuit will connect Shadowridge to Chicarita Substation.

The proposed project will be constructed while the line on the existing H-frames remains in service. Temporary outages on the existing 138kV circuit may take place daily while foundations are excavated for the new poles and when new poles are being erected. No customer load will be affected by these construction outages. After the new poles are erected, the new conductors and fiber optic line

will be strung and attached to the poles. All construction will take place entirely within the existing ROW. Work at the Shadowridge Substation will take place entirely within the fenced area of the existing facility.

A minor relocation of existing electric distribution facilities is required to maintain conductor clearance for the proposed transmission circuits. The distribution relocation involves the undergrounding of approximately 1,600 feet of existing overhead distribution lines.

### **GO 131-D**

GO 131-D was adopted by the Commission in Decision D. 94-06-014 and modified by D.95-08-038. Pursuant to GO 131-D, Section III.B.1.g., SDG&E claims that the proposed facility construction meets the specific conditions that exempt SDG&E from the PTC Requirements. SDG&E claims that the proposed facilities will be consistent with following exemption criterion:

power line facilities or substations to be located in an existing franchise, road-widening setback easement, or public utility easement; or in a utility corridor designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies for which a final Negative Declaration or EIR finds no significant unavoidable environmental impacts.

Energy Division has confirmed that the proposed facilities will be located entirely within SDG&E existing easements, rights-of-way ("ROW") and SCE fee-owned property.

GO 131-D Section III.B.2. contains exception criteria, which if applicable, do not permit exemptions from the PTC Requirements. Exemptions from the PTC Requirements do not apply when any of the conditions specified in CEQA Guidelines § 15300.2 exist:

a. there is reasonable possibility that the activity may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies; or

- b. the cumulative impact of successive projects of the same type in the same plate, over time, is significant; or
- c. there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

A valid protest must state facts demonstrating “that any of the conditions described in Section III.B.2 exist or the utility has incorrectly applied an exemption as defined in Section III...” (GO 131-D, Section XIII).

## **NOTICE**

Notice of AL 2030-E was made by publication in the Commission’s Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## **PROTESTS**

Advice Letter 2030-E was protested.

Within the 20-day protest period specified in GO 131-D, the Commission received four protests (Protest) to AL 2030-E. The following protests were received: Rancho Dorado Owners Association; Rancho Carrillo Master Association; and Individuals James Lambert (on behalf of certain residents of San Marcos and Carlsbad); and Jon Lycett (collectively referred to as “Protestants”).

The protests raise questions about the Project in the following areas: (1) the project may impact aesthetics and property values; (2) the project may impact environment or sensitive species; (3) the project may increase magnetic fields; (4) the project may be a source of fire; (5) the project may increase airplane accidents.

SDG&E has addressed each of the issues raised in the Protests above. SDG&E claims that the protests fail to demonstrate that the conditions specified in CEQA Guidelines 15300.2 and GO 131-D, B.2.a.-c. , which would require an application for a permit to construct, exist. SDG&E claims that the grounds for a valid protest under Section XIII of GO 131-D have not been met and, therefore, the protests should be dismissed.

The following Section summarizes the grounds of the protests, SDG&E responses to the protests, and states Energy Division's findings with regard to whether the facts alleged in the protests meet the criteria for a valid protest pursuant to GO 131-D, Section XIII.

### **DISCUSSION OF PROTESTS**

#### Aesthetics or property values

Protests claim that the construction of additional powerlines will have a significant impact on scenic views and the existing visual character and quality of the sites and surroundings.

SDG&E responded that according to CEQA aesthetic criteria, the proposed project does not meet the thresholds that indicate significant impact. SDG&E argues that the project would result in a small incremental aesthetic change, and would not substantially impact the visual quality of the site.

Regarding the proposed project's impact on property values, SDG&E claims no systematic measure of property value impact resulting from proximity to electric facility has been established. Further, Energy Division agrees with SDG&E that an accepted methodology for assessing the property value impact resulting from the proximity of electrical facilities has yet to be established.

Energy Division finds that the incremental nature of the proposed power lines in the established right-of-way would not result in a potentially significant aesthetic impact as defined by CEQA guidelines.

#### Impact to sensitive plant and animal species

Protesters note that an exception to Exemption g. exists if there is a reasonable possibility that the Project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state or local agencies. Protesters claim that SDG&E right-of-way is directly adjacent to areas that are designated and preserved open space by the Cities of Vista, Carlsbad and San Marcos and that these areas may be home to several endangered species.

SDG&E replied that for purposes of claiming that an exception to exemption g. exists for impacts to biological resources under CEQA Guidelines Section 15300.2 there must be a reasonable possibility that the Project may impact on an environmental resource of hazardous or critical concern where designated,

precisely mapped and officially adopted pursuant to law by federal, state or local agencies. SDG&E points out that none of the protests make this claim.

Commission staff discussed the potential impacts to listed species with SDG&E. SDG&E provided vegetation maps complying with Natural Community Conservation Planning (NCCP), Carlsbad Habitat Management Plan (HMP) vegetation map within the Shadowridge right-of-way, and a map of all USFWS Designated Critical Habitat within 2 miles of the project alignment

Energy Division finds that the conditions specified in CEQA guidelines Section 15300.2, namely subsection (a) do not exist because the project ROW sections with designated, precisely mapped habitat were surveyed and were found to be devoid of sensitive species. Thus, there is not a reasonable possibility that the activity of constructing the facilities would impact listed sensitive species.

#### EMF

Many protests allege that the Project will cause increased cumulative EMF exposure.

SDG&E responded that EMF exposure is not a sufficient basis for a protest citing Commission Decision 96-04-094, which at page 5 states: "Concern about possible EMF exposure resulting from a project is not sufficient basis for finding that an exemption under Section III.B.2a, (b), or (c) exists..."

The action plan established in Commission Decision 93-11-013 adopting various "no-cost and low-cost" measures into the construction of new or upgraded power facilities will be implemented by SDG&E as part of this project.

Energy Division finds that EMF exposure is not a sufficient basis for qualifying for an exception that would override Exemption g and EMF exposure resulting from the project is not sufficient basis for finding that an exemption under Section III.B.2a-c. exists.

#### Brush fire

Protesters claim that the proposed facilities have the potential to result in increased fire hazards.

SDG&E responded that under the excepted conditions specified under Section III.B.2 of GO 131-D, the application of CEQA Guidelines Section 15300.2(c)

override an exemption where two conditions exist: (1) the project presents unusual circumstances and (2) there is a reasonable possibility of a significant environmental impact due to those unusual circumstances. Whether a circumstance is “unusual” is judged relative to the typical circumstances related to an otherwise typically exempt project. It is inevitable that most, if not all, of SDG&E power line modification projects exempt from GO 131-D, pursuant to Section III.B.1.g would be at least partially constructed in a high fire area due to the nature of SDG&E service territory. Approximately 56 percent or more depending on seasonal weather and climate conditions, of SDG&E service territory has been designated as very high fire hazard severity zone on Cal Fire maps for local responsibility area lands. Given the presence of other overhead power lines throughout high fire hazard areas within SDG&E service territory, the Project does not present an “unusual circumstance”.

Energy Division finds that potential brushfire and seismic concerns do not constitute “unusual circumstances” in SDG&E service territory.

#### Impact on aerial safety

Protesters claim that the construction of the project will have an impact on aerial safety.

SDG&E requested that the Federal Aviation Administration (FAA) conduct an aeronautical study in 2008 for the entire project. The FAA’s aeronautical study determined that selected structures exceeded obstruction standards, but the power line would not be a hazard to air navigation provided certain precautionary measures were met. SDG&E intends to comply with the FAA recommendations, such that the FAA’s final determination of “no hazard to air navigation” would be in effect.

Based on SDG&E’s compliance with the FAA’s requirements and on the FAA’s final determination, Energy Division finds that there is no hazard to air navigation.

#### **DISCUSSION**

Energy Division has reviewed SDG&E Advice Letter 2030-E submitting notice pursuant to General Order 131-D (GO 131-D), Section XI, Subsection B.4 for the Construction of Facilities that are exempt from a Permit to Construct as well as

the protests that were submitted. Energy Division has concluded that the proposed facilities meet the criteria for an exemption from PTC Requirements because construction consists of power line facilities or substations to be located in SDG&E existing franchise, road-widening setback easement, or public utility easement.

Staff has also concluded that the protests filed do not contain facts that support a finding that: there is reasonable possibility that the activity may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies; the cumulative impact of successive projects of the same type in the same place, over time, is significant; or there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Therefore, the protests do not meet the criteria for an exception from Exemption g., which would require SDG&E to apply for a permit to construct.

## **FINDINGS**

1. On October 8, 2008, SDG&E filed Advice Letter 2030-E. Protests or comments were due to the Commission on October 28, 2008; four protests were filed.
2. The proposed project will construct a new 138kV loop circuit (TL 13825), approximately four miles long, from the Meadowlark Junction into the existing Shadowridge Substation.
3. The new double circuit 138kV line will be constructed on approximately 25 new steel tubular galvanized poles mounted on concrete foundations.
4. This new line replaces an existing 138kV single circuit wood pole line, which will be removed after the new line is constructed and energized.
5. Upgrades at the Shadowridge Substation will include the installation of a new circuit breaker within the substation fence.
6. Advice Letter 2030-E was protested.
7. The following protests were received by: Rancho Dorado Owners Association; Rancho Carrillo Master Association; and Individuals James Lambert (on behalf of certain residents of San Marcos and Carlsbad); and Jon Lycett (collectively referred to as "Protestants").
8. The protests raise questions about the Project in the following areas: (1) the project may impact aesthetics and property values; (2) the project may impact environment or sensitive species; (3) the project may increase magnetic fields;

- (4) the project may be a source of fire; (5) the project may increase airplane accidents.
9. SDG&E has addressed each of the issues raised in the Protests.
  10. Energy Division finds that the incremental nature of the proposed power lines in the established right-of-way would not result in a potentially significant aesthetic impact as defined by CEQA guidelines. Energy Division finds that the conditions specified in CEQA guidelines Section 15300.2, namely subsection (a) do not exist because the project ROW sections with designated, precisely mapped habitat were surveyed and were found to be devoid of sensitive species. Thus, there is not a reasonable possibility that the activity of constructing the facilities would impact listed sensitive species.
  11. Energy Division finds that EMF exposure is not a sufficient basis for qualifying for an exemption that would override Exemption g and EMF exposure resulting from the project is not a sufficient basis for finding that an exemption under Section III.B.2a-c. exists.
  12. Energy Division finds that potential brushfire and seismic concerns do not constitute “unusual circumstances” in SDGE service territory.
  13. Based on SDG&E’s compliance with the FAA’s requirements and on the FAA’s final determination, Energy Division finds that there is no hazard to air navigation.
  14. Energy Division has reviewed SDG&E Advice Letter 2030-E submitting notice pursuant to General Order 131-D (GO 131-D), Section XI, Subsection B.4 for the Construction of Facilities that are exempt from a Permit to Construct as well as the protests that were submitted.
  15. Energy Division has concluded that the proposed facilities meet the criteria for an exemption from PTC Requirements because construction consists of power line facilities or substations to be located in SDGE existing franchise, road-widening setback easement, or public utility easement.
  16. Staff has also concluded that the protests do not meet the criteria for an exemption from Exemption g., which would require SDG&E to apply for a permit to construct.

**IT IS HEREBY RESOLVED:**

1. The findings of Energy Division Staff are hereby adopted by the Executive Director.

Resolution E-4245  
SDG&E AL 2030-E/JNR

2. SDG&E Advice Letter 2030-E, notifying the Commission of the proposed construction of utility facilities, is exempt from a Permit to Construct pursuant to General Order 131-D, Section III, Subsection B.1.g.
3. The protests are dismissed because the facts claimed in the protests do not meet the exception criteria contained in GO 131-D, B.2.a-c.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by Executive Director Action Resolution on June 9, 2009.

/s/ Paul Clanon  
Paul Clanon  
Executive Director