

Decision **PROPOSED DECISION OF ALJ KOLAKOWSKI** (Mailed 9/28/09)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of  
Southern California Edison Company  
(U-338-E) for a Certificate of Public  
Convenience and Necessity Concerning  
the Devers-Palo Verde No. 2 Transmission  
Line Project.

Application 05-04-015  
(Filed April 11, 2005)

**DECISION MODIFYING DECISION 07-01-040  
GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

On May 14, 2008, Southern California Edison Company (SCE) filed a petition for modification (Petition) of Decision (D.) 07-01-040 in Application (A.) 05-04-015. D.07-01-040 grants a certificate of public convenience and necessity to SCE to construct the Devers-Palo Verde No. 2 Transmission Line Project (Project). Most significantly, SCE seeks modifications to the Decision that will permit SCE to construct only the California portion of the Project. This decision grants the requested relief, as adjusted herein, and modifies D.07-01-040 as set forth in Attachment 1.

**1. Background**

The Commission granted an application for a certificate of public convenience and necessity (CPCN) for the Project in D.07-01-040 (the Decision) dated January 25, 2007. The Commission granted the CPCN on the basis that the Project would generate significant economic benefits to California ratepayers.

The Project approved in the Decision was originally comprised of two major transmission lines, one of which is intrastate, and one of which is interstate. Together, the elements of the Project were intended to increase the transfer capability between load centers in southern California and electrical resources in Arizona by 1,200 megawatts (MW). This would allow southern California ratepayers to access competitively priced electrical resources in Arizona, as well as reduce congestion on existing transmission lines, thus providing significant ratepayer benefits in the form of lower energy prices and reduced congestion charges. These ratepayer savings were estimated to be well in excess of the annual ratepayer costs of the Project.<sup>1</sup> As a result of these findings, the Decision conditioned construction of the California portion of the Project upon approval for construction of the Arizona portion of the Project.<sup>2</sup>

The intrastate portion of the Project is a 41.6 mile transmission line known as the “Devers-Valley No. 2” transmission line, a second 500 kV transmission line between SCE’s Devers substation in North Palm Springs, Riverside County, and SCE’s Valley substation in the unincorporated portion of Riverside County. The interstate line is an approximately 230 mile 500 kV line known as “Devers-

---

<sup>1</sup> Decision at 104, Findings of Fact 2-4, and 6.

<sup>2</sup> The Decision states that approval is conditioned upon construction according to the approved route, which encompassed the entire Project. Approval for the Arizona portion would have to be obtained from another agency, which would either be the Arizona Corporation Commission (ACC) or the Federal Energy Regulatory Commission (FERC).

Harquahala” transmission line, which would connect Devers substation in California to a location in Arizona near the Palo Verde nuclear generating plant.<sup>3</sup>

On June 6, 2007, the Arizona Corporation Commission (ACC) denied SCE’s application to construct the Project in Arizona.<sup>4</sup>

On May 14, 2008, SCE filed the Petition requesting modifications to the Decision to allow SCE to construct the Project in phases. Specifically, SCE sought authority to construct all of the California portions of the Project, up to and including the proposed Midpoint Substation east of Blythe, about 15 miles west of the California/ Arizona border. SCE sought to access “potential new renewable and conventional gas-fired generation in the Blythe, California area” and the Petition stated that “[s]uch authorization will help enable California to meet its renewable energy goals.”<sup>5</sup> The Petition stated that “SCE is committed to constructing the DPV2 facilities in Arizona” notwithstanding ACC denial, and claimed that phasing the construction “does not change the cost-effectiveness of the DPV2 project. ... DPV2 will still provide net benefits.”<sup>6</sup>

The Commission’s Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) filed separate responses to the Petition on June 13,

---

<sup>3</sup> The exact location of the Arizona terminus of the Devers-Harquahala transmission line was subject to on-going negotiations at the time of the Decision. The environmental document certified in the Decision studied three routing alternatives with different termination points for the Project. The Decision concluded that SCE should seek to terminate the Project at a new Harquahala Junction, subject to ACC approval and any other needed authorizations. Decision at 65-67.

<sup>4</sup> Arizona Corporation Commission Decision No. 69638 (June 6, 2007), docket No. L-00000A-06-0295-00130.

<sup>5</sup> Petition at 1.

<sup>6</sup> Petition at 4-6.

2008. TURN filed in support of SCE, arguing that it had resolved any environmental concerns with SCE. DRA raised objections to SCE's proposal, arguing that a new cost-effectiveness study was necessary and that without the Arizona portion of the Project, the California portion might be unnecessary.

In response to the concerns raised by DRA, assigned Commissioner Dian Grueneich and ALJ Timothy J. Sullivan issued a joint ruling on July 17, 2008 (Joint Ruling). The Joint Ruling found that SCE had not provided sufficient information to allow the Commission to grant the Petition. It found:

SCE's Petition fails to provide facts to demonstrate that ratepayer benefits accrue: (1) if only the California portion of DPV2 is construction, or (2) if construction of the Arizona portion of DPV2 is constructed far beyond the time frame estimated in the original CPCN decision.

Consequently, the Joint Ruling ordered SCE to amend the Petition "to provide this missing information and therefore demonstrate that construction of the California portion of DPV2 will serve the public interest."<sup>7</sup>

ALJ Victoria S. Kolakowski was co-assigned to the proceeding on August 14, 2008.

In response to the Joint Ruling, SCE filed an amendment to the Petition (Amendment) on September 2, 2008 and a supplement on September 12, 2008. The Amendment included additional information regarding the renewable resources in the Blythe area, as well as updated information regarding the costs and benefits of the Project. No party filed comments on the Amendment or the supplement.

---

<sup>7</sup> Joint Ruling at 2.

More than eight months later, on May 15, 2009, SCE filed an *ex parte* notice with two attachments. The first attachment was a copy of a letter to the Commissioners, dated May 15, 2009, informing them that SCE intended to discontinue pursuit of ACC approval for the Arizona portion of the Project and stating SCE's intention to pursue the California portion of the Project. The second attachment was a copy of a letter to the ACC dated May 15, 2009, stating that SCE had updated its economic analysis and that the benefits of the Project are "significantly lower as a result of recent developments." The letter stated that SCE would not be re-filing with the ACC for authorization of the Arizona portion of the Project. Consistent with these notices, SCE withdrew its May 16, 2008 pre-filing request to initiate Federal Energy Regulatory Commission (FERC) preemption of the ACC denial in Docket No. PT08-1-000 in a May 18, 2009 letter to FERC. SCE had submitted the request as an initial step in obtaining a FERC permit for the Arizona portion of the Project pursuant to Section 216 of the Federal Power Act.

In response to the May 15, 2009 *ex parte* notice, ALJ Kolakowski issued a ruling on June 3, 2009, directing SCE to supplement the record for what had become a California-only Project.<sup>8</sup> The ruling directed that SCE supplement the Petition regarding four matters: (1) the current status of the California-only Project, including any changes to cost estimates, applications before other agencies and the California Independent System Operator Corporation (CAISO),

---

<sup>8</sup> "California-only Project" is used herein to describe a modified version of the original Project wherein only the California segments west of and including the Midpoint Substation are constructed, and the segments east of Midpoint Substation are not constructed.

power purchase agreements between SCE and generation developers served by the Project, projections of renewable energy resources identified by the Renewable Energy Transmission Initiative (RETI),<sup>9</sup> and any other relevant information; (2) information regarding the status of the CAISO's approval of the California-only Project; and (3) information regarding the status of the Blythe Energy Project Phase I and II generation facilities.

SCE filed its supplemental information on June 26, 2009 (Supplemental Filing). Notably, the Supplemental Filing provides as Attachment I a June 19, 2009 letter from the CAISO to the ALJ setting forth the conditions for CAISO approval of a California-only Project (CAISO Letter).<sup>10</sup> The CAISO Letter explains that, given a California-only Project, "the economic justification for the project ... is no longer applicable."<sup>11</sup> However, the CAISO Letter suggests that "that California portion of the project continues to provide operational and reliability benefits, and the ISO has identified the anticipated need for the project as a generation interconnection facility, which provides the basis for the ISO's agreement to the construction of the California portion of the project, should the

---

<sup>9</sup> RETI is a collaborative study effort among California stakeholders seeking to develop renewable generation and associated transmission. The RETI effort is overseen by a Coordinating Committee composed of the Commission, the California Energy Commission, the CAISO, the Southern California Public Power Authority, the Northern California Power Agency, and the Sacramento Municipal Utility District. The Stakeholder Steering Committee is comprised of investor-owned utilities, publicly owned utilities, renewable developers, federal land use agencies, environmental organizations, consumer organizations, local government organizations, and others. Additional information about RETI is available at <http://www.energy.ca.gov/reti>.

<sup>10</sup> The letter was also delivered to the ALJ on June 19, 2009, and the CAISO filed a concurrent *ex parte* notice with the letter attached.

<sup>11</sup> Supplemental Filing, Attachment I, CAISO Letter at 2.

requirements below be met.”<sup>12</sup> The CAISO Letter provides a summary of the status of generator interconnection requests in the Blythe area, where the California-only Project would terminate, and states that “[t]he ISO anticipates that the California portion of the project will be an important facility in furtherance of state goals regarding the long-term acquisition of power from renewable energy resources.” In summary, the CAISO Letter explains that the CAISO’s approval of the California-only Project is contingent upon the execution of a sufficient number of Large Generator Interconnection Agreements for interconnection to the California-only Project.<sup>13</sup> SCE estimates CAISO approval of the California-only Project by as early as December 2009 or as late as January 2011, depending upon the successful execution of large generator interconnection agreements in the near term, or a determination of need based upon certain clusters of interconnection requests.<sup>14</sup>

In response to the Supplemental Filing, DRA filed a response on July 6, 2009 (DRA Response) arguing that “[t]here is nothing in the record that demonstrates that the California portion of this transmission project is needed; no such determination has yet been made by the CAISO, and any determination is at least six months away.”<sup>15</sup> DRA seeks denial of the Petition, without prejudice to a later SCE filing.

---

<sup>12</sup> Supplemental Filing, Attachment I, CAISO Letter at 2.

<sup>13</sup> Supplemental Filing, Attachment I, CAISO Letter at 2.

<sup>14</sup> Supplement Filing at 15.

<sup>15</sup> DRA Response at 4.

## 2. Procedural Requirement Under Rule 16.4

Rule 16.4 governs the process for the filing and consideration of Petitions for Modification (PFM). Rule 16.4(b) requires that a PFM concisely state the justification for the proposed relief and to propose specific wording for all requested modifications. SCE's Petition and Amendment contain concise but thorough statements of justification for the proposed modifications. SCE's Petition and Amendment proposes specific wording for all requested modifications. Hence, this requirement has been fulfilled.

Rule 16.4(d) states that if more than one year has elapsed since the effective date of the decision, then the petitions must explain why they could not have been presented within one year of the effective date of the decision. SCE's Petition did not expressly address this issue. However, it is clear from the sum of the discussion throughout the record that the Petition was necessitated by the ACC's denial of SCE's permit to construct the Arizona portion of the Project, SCE's subsequent appeal of that decision, and SCE's inability to remedy this situation in the months that followed. Attachment B to the Supplemental Filing provides a procedural background for the Petition and explains that SCE filed the Petition "in anticipation of obtaining the approvals it needed to construct the Arizona portion of DPV2, and to position itself and the State of California to take advantage of potential generation sources (most of which are renewable) near Blythe, California."<sup>16</sup> We find that this is a reasonable justification for the delay.

Hence, we conclude that SCE's Petition and Amendment complies with the requirements of Rule 16.4.

---

<sup>16</sup> Supplemental Filing, Attachment B, 2<sup>nd</sup> paragraph.

### **3. Need For The California-Only Project**

#### **3.1. The Prior Economic Need For The Project Does Not Apply To A California-Only Project**

As described above, this Commission approved the Project contingent upon construction of both the California and Arizona portions because the Arizona portion of the Project was critical to delivering the economic benefits that justified approval of the line. Nevertheless, SCE's Petition provided insufficient information to confirm that the Arizona portion would ever be approved by the ACC and constructed. Consequently, pressed by the Joint Ruling ordered SCE to provide an updated economic analysis to explain the economic benefits of a California-only Project. SCE provided limited economic analysis in its Amendment and stated that it would complete a more detailed analysis by the end of the year to accompany an application to construct with either FERC or the ACC, and that analysis would be presented to the Commission. SCE argued in its Amendment that a new economic analysis was unnecessary because the Project was approved in D.07-01-040.<sup>17</sup> This argument has been rendered moot by SCE's subsequent decision to perform an economic analysis.

The issue of the economic benefits of the Project has been rendered moot by SCE's subsequent admission in the Supplemental Filing that the economic benefits of the Project have been reduced and that it will no longer be pursuing construction of the Arizona portion of the Project.<sup>18</sup> The Supplemental Filing

---

<sup>17</sup> Amendment at 13.

<sup>18</sup> Supplemental Filing at 3-4.

points to SCE's May 15, 2009 letter to the ACC to explain that the economic benefits of the Project from Arizona to California have diminished since Commission approval:

[T]here has been a narrowing of the economic spread between the costs of California and Arizona generating resources, and a reduced load forecast due to changed economic conditions and the expansion and success of energy efficiency. As a result, the benefits to California consumers of SCE pursuing the Arizona portion have been reduced from the level forecast at the time of SCE's initial filing in [sic] with the ACC.<sup>19</sup>

On this basis, SCE informed the ACC that it would no longer pursue authorization to construct the Arizona portion of the Project.

SCE's decision to pursue a California-only Project changes the nature of the Project approved by this Commission.

SCE does not seek to justify a California-only Project on purely economic grounds. Rather, SCE now seeks to justify the California-only Project as "needed to interconnect significant amounts of new generation."<sup>20</sup> Consequently, we analyze here that showing and whether it may be relied upon to justify construction of a California-only Project.

### **3.2. Interconnection Requests and Other Indicia of the Need for Transmission in the Blythe Area**

SCE's Petition sought Commission approval to accelerate SCE's construction of the California portion of the Project on the basis that SCE had "received a large number of interconnection requests for new generation in the

---

<sup>19</sup> Supplemental Filing at 3.

<sup>20</sup> Supplemental Filing at 4 citing SCE's May 15, 2009 letter to ACC at 2.

Blythe area.”<sup>21</sup> SCE stated that “[d]evelopment of these projects requires construction of the California portion of the DPV2 project if the power from these projects is to reach markets in Southern California.”<sup>22</sup>

The size and number of interconnection requests associated with the Blythe area have changed during the pendency of SCE’s Petition, and are likely to change again on December 1, 2009 when additional deposits will be required from certain generators in the CAISO interconnection queue. In the May 14, 2008 Petition SCE reported 5128 MW of renewable generation interconnection requests in the Blythe Area (including the Midpoint and Julian Hinds-Eagle Mountain Areas) and 1210 MW of conventional gas-fired generation for a total of 6338 MW seeking interconnection. SCE’s more recent June 26, 2009 Supplemental Filing reports eleven interconnection requests comprised of 4900 MW of renewable generation and the same 1210 MW of conventional gas-fired generation for a total of 6110 MW.<sup>23</sup> Thus, while the interconnection request numbers have changed slightly over time, due in part to CASIO interconnection queue reform, they have not changed dramatically and generator interest in the Blythe area appears to remain constant and significant.

We do not approve construction of transmission lines based solely on the evidence of generator interconnection requests, which have most recently reflected a certain amount of speculation, rather than firm commitments to development. Consequently, SCE was compelled to provide additional information in support of its Petition.

---

<sup>21</sup> Petition at 5.

<sup>22</sup> Petition at 5.

<sup>23</sup> Supplemental Filing at 13 (emphasis added).

In support of its claim that the California-only Project is needed to interconnect renewable generation, SCE points to the U.S. Department of Interior, Bureau of Land Management (BLM) “Solar Energy Applications list” to demonstrate that over 10,000 MW of solar projects are proposed to be located along the corridor of a California-only Project:

[A]s of August 7, 2008, [the Solar Energy Applications list] indicated that 10,850 MW of solar projects have requested rights-of-way through the California Desert District BLM office at Palm Springs, the office that oversees projects in the Blythe area. These 10,850 MW have proposed locations that are physically located along the DPV 2 Corridor. [Footnote omitted] Out of the 10,850 MW of proposed solar project locations, 3,700 are expected to be solar thermal and 7,150 are solar photovoltaic and together they account for roughly 22% of all solar energy projects that have requested for [sic] rights-of-way with California’s BLM offices. This shows that the Blythe area is an important area for California if solar resources are [sic] which could be used to serve California electric customers.<sup>24</sup>

SCE also provided a “snapshot” of a BLM map showing the locations of the Blythe-area solar projects along the Project corridor. SCE concludes that “[t]hese projects’ proximity to the DPV2 corridor demonstrates that the California portion of DPV2, along with the Midpoint switchyard, is the most logical transmission line to be developed to help interconnect solar energy onto the California system.”<sup>25</sup> SCE concludes:

A close examination of the CAISO interconnection queue and the BLM right-of-way requests suggests that the total solar resources being planned and developed in the Blythe area may actually be

---

<sup>24</sup> Amendment at 5.

<sup>25</sup> Amendment at 7.

greater than either of the queue sizes because some projects in the CAISO interconnection queue are being developed on privately-owned land and therefore do not require BLM application [sic] and some of the projects on the BLM list have not yet submitted CAISO interconnection requests. Thus, the total amount of solar energy being planned in the Blythe area exceeds 10,800 MW.<sup>26</sup>

SCE's Supplemental Filing points to RETI findings to justify the California-only Project as needed to interconnect renewable generation. Specifically, SCE cites to the RETI Phase 1B Final Report (RETI 1B Report) and the RETI Phase 2A Draft Report (RETI 2A Draft Report).<sup>27</sup> Both of these RETI Reports are public documents of which we take official notice.

The RETI 1B Report analyzed potential Competitive Renewable Energy Zones (CREZs) to determine how they ranked in terms of economic and environmental factors. The CREZs accessible to the Project are labeled Riverside East-A and Riverside East-B. The RETI 1B Report indicates that these two CREZs have the potential for 7,800 MW of large-scale solar projects.<sup>28</sup> The RETI 1B Report identifies the Riverside East-A CREZ, with 1,000 MW of large-scale solar potential, as one of the most highly rated CREZs in the state in economic terms.<sup>29</sup>

SCE explains that the RETI 2A Draft Report (which has subsequently been modified and adopted as a final report) identifies a Conceptual Transmission Plan for California "which includes major transmission lines and other facilities

---

<sup>26</sup> Amendment at 8.

<sup>27</sup> Supplemental Filing at 8-11. All of these RETI reports are available at: <http://www.energy.ca.gov/reti/documents/index.html>

<sup>28</sup> RETI 1B Report, Economic Analysis of CREZ, Table 4-9 at 4-16.

<sup>29</sup> See RETI 1B Report at 5-13.

likely to be required not only to deliver renewable energy, but also provide important additional benefits to the grid.”<sup>30</sup> SCE goes on to explain that “[t]he California portion of the DPV2 is included as a component of this Conceptual Transmission plan. This project has the advantage of being before the Commission and can be completed in a timely fashion, provided the Commission acts quickly.”<sup>31</sup>

The Supplemental Filing also includes the CAISO Letter at Attachment I which states that: “[t]he ISO’s studies have determined that the interconnection of 1030 MW of new full capacity generating facilities to the Devers-Palo Verde No. 1 line in the Blythe area near the Colorado River would trigger the need for construction of the new Midpoint to Valley transmission line in order for the generation from those facilities to be fully deliverable.”<sup>32</sup>

### **3.3. Commission Standards for Determining Need**

Historically, under California Pub. Util. Code § 1001, need for a transmission project is established based upon a project’s contribution to reliability or the ratepayer savings it will produce. Further, the Commission does not approve a new transmission line unless it is required for the “present or future public convenience and necessity.”

More recently, with the advent of California’s Renewable Portfolio Standard (RPS) and the adoption of Pub. Util. Code § 399.2.5,<sup>33</sup> the Commission

---

<sup>30</sup> Supplemental Filing at 8.

<sup>31</sup> Supplemental Filing at 8.

<sup>32</sup> CAISO Letter at 3.

<sup>33</sup> Formerly Pub. Util. Code § 399.25.

has recognized the necessity of approving new transmission projects in anticipation of future renewable energy projects to meet RPS goals. However, and significantly, SCE has not expressly asserted that the California-only Project is necessary to meet California's RPS and SCE has not requested approval of the California-only Project pursuant to Section 399.2.5.<sup>34</sup> Rather, SCE has claimed that the California-only Project is needed to interconnect both renewable and conventional generation resources proposed to be located in the Blythe area. Nevertheless, because of the extensive renewable potential of the Blythe area, and the RETI 2A Draft Report's identification of the California-only Project as needed to deliver those resources to Southern California load centers, we will consider the § 399.2.5 need analysis applied in previous renewable transmission CPCN cases to determine the need for the California-only Project.

In D.07-03-012 and D.07-03-045 we considered the need for Segments 1, 2, and 3 of what has become known as the Tehachapi Renewable Transmission Plan (TRTP) to build transmission to the wind rich Tehachapi Wind Resource Area. In those decisions we established a three part test for determining need under Pub. Util. Code § 399.25,<sup>35</sup> requiring that a project proponent demonstrate: (1) that a project would bring to the grid renewable generation that would otherwise remain unavailable; (2) that the area within the line's reach would play a critical role in meeting the RPS goals; and (3) that the cost of the line is

---

<sup>34</sup> See, e.g. Amendment at 20 ("... SCE is not requesting in this petition that the Commission authorize cost-recovery under Pub. Util. Code Section 399.25. However, SCE is not waiving its statutory right to seek such recovery in the future.")

<sup>35</sup> The relevant provisions of Pub. Util. Code § 399.25 were not modified when the statute was recodified as § 399.2.5.

appropriately balanced against the certainty of the line's contribution to economically rational RPS compliance.

SCE has provided uncontested information that the California-only Project will be an essential component to delivering renewable generation in the Blythe area to California load centers. The RETI analysis assumes the existence of the California-only Project in its base case, and it finds that the generation in the Blythe area (the East Riverside CREZs) constitute some of the most promising renewable resources in California, taking both economic and environmental considerations into account.

Notwithstanding this unchallenged showing, SCE has failed to take the information to the next stage and make an argument of need for the California-only Project under the three part test established in D.07-03-012 and D.07-03-045. Instead, SCE asserts that the line is needed to respond to interconnection requests – requests that have not been formalized into Interconnection Agreements, and could be withdrawn at any time.

This Commission does not approve transmission lines based solely on interconnection requests, and we decline to do so here. Nevertheless, as set forth below, we find special circumstances here for approving SCE's request to authorize construction of the California-only Project.

#### **3.4. Prudent Decision Analysis Weighing All Factors**

As described above, SCE's showing in support of the need for the California-only Project is deficient. Nevertheless, the cumulative weight of the uncontested facts and the unique circumstances surrounding this transmission line lead us to conclude that construction of the California-only Project is required to meet future public convenience and necessity.

The California-only Project will allow access to significant potential renewable resources, particularly large-scale solar projects in the Riverside East-A and Riverside East-B CREZs. While these resources remain speculative, and may not be needed to meet the current 20% RPS mandates, those located in the Riverside East-A CREZ appear to be economically desirable for reaching the 33% by 2020 levels set forth in California policy.<sup>36</sup>

Two other factors unique to this Petition clearly weigh in favor of a California-only Project. First, the transmission lines would be built within existing high-voltage transmission rights-of-way containing towers similar to those proposed, thus significantly minimizing the environmental impact of the line. The 500 kilovolt (kV) towers for the California-only Project would be placed adjacent to the existing Devers-Palo Verde 1 line, which is also comprised of 500 kV towers. Second, almost all of the planning and environmental siting review has been completed. The Commission has already certified the Final Environmental Impact Report (Final EIR) for the Project. The final engineering and economic evaluations are underway.

No other transmission project could access the Riverside East CREZs without significant time delays in terms of environmental review and significant cost. Given RETI's assumption of the California-only Project segments in its base

---

<sup>36</sup> The Energy Action Plan, adopted by the Commission and the California Energy Commission in May 2003, accelerated the completion date to 2010. SB 107, passed in 2006, codified that policy. The Governor's Executive Order S-14-08 (issued on November 17, 2008) promotes the 33% renewable goal and identifies adequate transmission for renewable energy an issue of critical importance. More recently, the Governor's Executive Order S-21-09 (signed on September 15, 2009) orders the California Air Resources Board to adopt regulations implementing a 33% renewable resources by 2020 RPS program.

case, it would be difficult for California to achieve a goal of 33% renewable resources by 2020 without being able to access these CREZs. In addition, in order to reach the 33% goal, California will likely need to construct significant new transmission resources in SCE's service territory, and delay could make it more difficult for both SCE and the Commission to pursue development of these projects simultaneously. Further, and significantly, there is no environmental opposition to this line. Hence, there is a definite benefit to completing a project, like this one, that faces no environmental challenges and for which construction can begin imminently.

This is clearly a unique and unprecedented opportunity to construct a previously studied transmission line project to support RETI-identified economically and environmentally desirable CREZs. We should not pass up this opportunity to quickly and efficiently, with little environmental damage, expand the transmission grid to support these CREZs.

Given the potential for renewable resources in the Riverside East CREZs, the substantial work and study already completed on the Project including certification of the Final EIR, the constrained environmental impacts of building in an existing corridor, the lack of environmental opposition, and the uncertainty in terms of delay and cost in considering an alternative project to access these CREZs, we find that it is necessary, reasonable, and prudent to construct the California-only Project.

However, because construction of the Arizona portion of the Project would potentially reduce the California-only Project's ability to transmit energy from the Riverside East CREZs, we require SCE to seek Commission approval prior to resuming pursuit of the Arizona portion of the Project in the future.

#### 4. Environmental Impact

SCE's Petition raises two issues which led us to question the need for additional environmental review under the California Environmental Quality Act (CEQA)<sup>37</sup> and the National Environmental Policy Act (NEPA).<sup>38</sup> The first issue is the construction of the Midpoint Substation, which was not authorized in the Decision, and the second issue is the possibility that development of renewable resources in Blythe may constitute a connected action that would require a supplemental Environmental Impact Report (EIR)/Environmental Impact Statement (EIS). Both issues are addressed in this section.

The Midpoint Substation was studied in the environmental review process as a possible element of the Project but was not authorized in the Decision. The environmental impacts of two alternative substation locations were fully evaluated in the Final EIR/EIS, the Midpoint-Desert Southwest Substation (Midpoint-DSW Substation) and SCE's originally proposed location (Midpoint Substation). The Final EIR/EIS concluded that either location was "equally environmentally superior/preferable."<sup>39</sup> Hence, SCE may chose to pursue either of the studied locations for purposes of CEQA/NEPA, and our approval of construction of the Midpoint Substation does not trigger the need for additional environmental review.

The issue of whether development of renewable resources in Blythe constitutes a "connected action" within the CEQA/NEPA framework is more

---

<sup>37</sup> California Public Resources Code § 21000, *et seq.*

<sup>38</sup> 42 USC § 4321, *et seq.*

<sup>39</sup> Final EIR/EIS, Vol. 2, Section E.2.1.3, at E-12.

complicated. CEQA § 21166 states three conditions that may require the issuance of a subsequent or supplemental EIR (SEIR):

- a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

SCE argues that nothing in the Petition or Amendment rises to the level of requiring an SEIR, as the Project will be constructed in the same manner as studied in the Final EIR/EIS, and any renewable resources anticipated to be constructed in the Blythe area are too speculative to allow for a detailed environmental review.<sup>40</sup> In addition, SCE argues that requiring environmental review for what is essentially “mere ‘interconnection requests’” would create an extraordinarily burdensome standard for the Commission, which would hamper development of renewable resources system-wide and would extend the scope of the project description to include future actions overseen by other state agencies.<sup>41</sup>

SCE’s arguments are compelling. Nevertheless, in order to be prudent, Energy Division staff (Staff) directed the environmental consultant to develop an Addendum to the Final EIR/EIS based upon the new information presented by the Petition, Amendment, and Supplemental Filing. The Addendum is attached

---

<sup>40</sup> Amendment at 20-33.

<sup>41</sup> Amendment at 21 and 31.

hereto as Attachment 2. The Addendum explores the environmental impacts of renewable development in the Riverside East CREZs and concludes, and therefore we find, that the Blythe area renewable resources are too speculative to require an SEIR, in agreement with SCE's contention. We conclude that undertaking an SEIR is unnecessary here.

However, one important matter remains regarding the environmental impacts and the Decision, that of the Decision's statement of overriding considerations. The Decision recognized that significant and unavoidable impacts would result from construction of the Project, and made a finding pursuant to CEQA § 15093 that overriding considerations merited construction of the Project notwithstanding those impacts.<sup>42</sup> Those considerations included the economic benefits originally contemplated by the Project's interconnection to Arizona and access to inexpensive generation resources. Those benefits will not be obtained from a California-only Project.

Nevertheless, the valuable role of the California-only Project in meeting the state's RPS goals provides benefits which outweigh the unavoidable adverse environmental effects. Hence, we find that these benefits of the California-only Project constitute an overriding consideration warranting approval of the California-only Project.

## **5. CAISO Board Approval and Cost Recovery Issues**

Similar to the Commission's own decision, CAISO Board approval of the Project was based upon construction of the entire Project and the economic

---

<sup>42</sup> Decision at 99.

analysis assuming access to low-cost energy in Arizona. The CAISO Letter<sup>43</sup> reflects that the CAISO intends to consider the California-only Project separately and approve construction in order for SCE to recover costs through FERC's ordinary transmission charges. While CAISO approval for the California-only Project is not necessary for the Commission to issue this decision on SCE's Petition, CAISO approval will be a determinative factor in whether construction costs are recovered from transmission users in FERC-administered rates.<sup>44</sup>

The CAISO Letter sets forth the conditions for CAISO approval of the California-only Project, based upon the CAISO's tariff at FERC.<sup>45</sup> In response to the CAISO Letter, DRA protested that the Commission should deny the Petition because the record does not demonstrate the need for the California-only Project and need has not yet been determined by the CAISO. DRA proposes that SCE re-file the Petition after the CAISO has determined the need for the California-only Project.<sup>46</sup>

We disagree with DRA's contention that the Petition should be denied. Withholding Commission approval for CAISO Board approval, and then reconsidering the need for the California-only Project, will only serve to delay construction of this important transmission resource.

However, we recognize that CAISO Board approval is necessary to FERC rate-recovery, and thus beneficial to SCE ratepayers. Thus, our approval here is

---

<sup>43</sup> Supplemental Filing, Attachment I.

<sup>44</sup> SCE is not seeking backstop cost recovery under Pub. Util. Code § 399.2.5.

<sup>45</sup> Supplemental Filing, Appendix I at 3.

contingent upon CAISO Board approval of the California-only Project. As CAISO approval will be conditioned upon executed interconnection agreements, among other things, this condition will prevent construction of the line if no interconnection requests materialize into actual projects.

Further, we recognize that the status of the CAISO's interconnection queue and executed interconnection agreements are critical to CAISO approval and the ultimate use of the California-only Project. Consequently, we require SCE to provide notice to the Director of the Commission's Energy Division on the status of the interconnection queue and interconnection agreements as they relate to the California-only Project every six months. Such notices shall include information on both renewable interconnection requests and agreements, as well as information on conventional generation seeking interconnection to the California-only Project.

## **6. Maximum Reasonable and Prudent Cost**

The Decision established a maximum reasonable and prudent cost (maximum cost) for the Project pursuant to Pub. Util. Code § 1005.5(a) of \$545,285,000 in 2005 including pension and benefits, and administrative and general overheads, but excluding Allowance for Funds Used During Construction (AFUDC). The Decision provided for increases and decreases to the maximum cost dependent upon various routing options that SCE might pursue for the Arizona portion of the Project.<sup>47</sup>

---

<sup>46</sup> Response of the [sic] Division of Ratepayer Advocates to Southern California Edison Company's Supplemental Information on Petition for Modification of D.07-01-040, July 6, 2009.

<sup>47</sup> Decision at Ordering Paragraph 10.

The Decision recognized that SCE's cost estimate for the Project would be more accurate once SCE developed a final detailed engineering design-based construction estimate, particularly given the fact that certain routing options remained under consideration. Consequently, it required SCE to file an advice letter within 30 days of the availability of such an estimate so that the Commission could reconsider the appropriate maximum cost for the project.<sup>48</sup>

SCE requests that in lieu of modifying the maximum cost at this time that we retain the advice letter process set forth in the Decision.

We grant SCE's request on this point. However, we note that SCE's current showing of the costs for the California-only Project raise several concerns which we expect SCE to fully address in its advice letter filing. SCE now estimates that the California-only Project will cost \$686 million in 2009 dollars. As an initial matter, it is troubling that SCE's cost estimate for the California-only Project is over \$100 million more than the maximum cost set for the entire Project - including the Arizona portion - with only 4 years of cost escalation. SCE does not explain how it calculated the escalation of 2005 dollars to 2009 dollars. SCE's advice letter filing should provide the most current cost estimates available, and if any escalators are used, they should be explained and justified. Additionally, if SCE's method for escalating 2005 dollars to 2009 dollars results in a different amount compared to using a Bureau of Labor Statistics escalation/inflation calculator, SCE should fully explain the difference and why SCE's chosen method is more appropriate. The cost differences between the Project we

---

<sup>48</sup> Decision at Ordering Paragraphs 11 and 12.

approved in the Decision and the California-only Project should be clearly explained.

SCE should also carefully review its assumptions and arithmetic in future filings, as there appear to be several errors in SCE's current filing. For example, SCE estimates AFUDC of \$135 million. This represents 25.6% of the cost of the California-only Project, which is significantly higher than AFUDC costs on other SCE transmission projects. This may be an error. SCE's advice letter filing should update the amount of AFUDC projected for the California-only Project, explain how it was calculated, including the rate used to calculate AFUDC (i.e., 90 day commercial paper rate). Additionally, SCE states in the Supplemental Filing that "Attachment K shows that construction of the DPV2 would include an estimated \$113 million for DPV2, \$333 million for Devers to the California border, and \$235 million for the California border to Harquahala for an estimated total of \$686 million in \$2009."<sup>49</sup> However, if we add up these numbers - 113 + 333 + 235 - they equal \$681 million, not \$686 million. Further, Attachment K reflects \$112 million for DPV2, not the \$113 million cited in the Supplemental Filing. While these errors or omissions are not significant given the scope of the project at issue here, we note that this listing is not exhaustive. Repeated errors and omissions of this type reflect a concerning lack of attention to detail which we expect to be corrected in future filings.

## 7. Conclusion

The Petition, Amendment and Supplemental Filing have been found to be procedurally sufficient to support a Petition for Modification. Based upon the

---

<sup>49</sup> Supplemental Filing at 19.

information contained in the Petition, the Amendment, the Supplemental Filing, and the CPUC-prepared Addendum, we conclude that SCE's proposed modifications should be adopted, as adjusted herein. We modify D.07-01-040 as set forth in Attachment 1.

### **8. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by \_\_\_ on \_\_\_\_\_, and reply comments were filed by \_\_\_ on \_\_\_\_\_.

### **9. Assignment of Proceeding**

Dian M. Grueneich is the assigned Commissioner and Victoria S. Kolakowski and Timothy J. Sullivan are the assigned Administrative Law Judges in this proceeding.

### **Findings of Fact**

1. The Commission approved SCE's A.05-04-015 for a CPCN for the Devers-Palo Verde No. 2 Transmission Line Project in D.07-01-040 on January 25, 2007.
2. The approved Project required construction in both Arizona and California.
3. The California-only Project would be constructed almost entirely within the existing high voltage transmission rights-of-way occupied by the 500 kV Devers-Palo Verde 1 transmission line.
4. D.07-01-040 certified a Final EIR for the Project.
5. SCE filed a Petition for Modification of D.07-01-040 on May 14, 2008. SCE filed an Amendment to the Petition on September 2, 2008 in accordance with a

joint Commissioner-ALJ Ruling issued on July 17, 2008. Due to a number of changed circumstances, SCE made a supplemental filing on June 26, 2009.

6. The Petition was filed as a consequence of the Arizona Corporation Commission's June 6, 2007 decision to deny SCE a permit to construct the Arizona portion of the Project and various SCE efforts after that time to resolve this issue, and therefore the delay in filing the Petition was reasonable.

7. SCE did not present cost-effectiveness information sufficient to demonstrate need for a California-only Project on economic grounds.

8. There is no guarantee that the Arizona portion of the Project will ever be completed, and SCE's letter to the ACC dated May 15, 2009 indicates that SCE does not intend to file a new application for approval of the Arizona portion of the Project in the near future.

9. SCE asserts that it has received a large number of interconnection requests for new generation in the Blythe, California area, which would be served by a California-only Project.

10. SCE asserts that the California-only Project is necessary for the power from this new generation in the Blythe area to reach markets in Southern California.

11. SCE's Supplemental Filing identified interconnection requests totaling 6,110 MW that would access the California-only Project, including 2,950 MW of renewable generation at the Midpoint Substation, 1,950 MW of renewable generation in the Julian Hinds-Eagle Mountain area, and 1,210 MW of conventional generation at the Midpoint Substation.

12. SCE cites BLM data stating that as of August 7, 2008, BLM had identified 10,850 MW of solar projects requesting rights-of-way along the Project corridor.

These projects are proposed to be physically located along the corridor of the California-only Project.

13. SCE relies upon this data to conclude that the total resources being planned and developed in the Blythe area may actually be greater than evidenced by the CAISO interconnection queue or the BLM data because the lists do not overlap. Thus, the total amount of solar energy being planned in the Blythe area may exceed 10,800 MW.

14. The RETI 1B Report identified a potential of 7,800 MW of large-scale solar generation capacity for the Riverside East-A and Riverside East-B CREZs, which would be served by a California-only Project. RETI found the 1,000 MW Riverside East-A CREZ to be an economically desirable CREZ.

15. The RETI 2A Draft Report presents a Conceptual Transmission Plan which includes the California-only Project as delivering the resources in the Riverside East CREZs to load.

16. The CAISO represents that it has studied the impacts on the transmission system of interconnecting new renewable resources in the Blythe area of the Riverside East CREZs and has determined that interconnection of 1,030 MW or more of new generation will trigger the need for construction of a Midpoint to Valley transmission line.

17. No party has challenged any of these facts.

18. Given the potential for renewable resources in the Riverside East CREZs, the substantial work and study already completed on the Project including certification of the Final EIR, the limited environmental impacts of building in an existing high voltage transmission corridor next to an existing 500 kV line, the lack of environmental opposition, and the uncertainty in terms of delay and cost in considering an alternative project to access these CREZs, it is necessary,

reasonable and prudent to construct the California-only Project, subject to approval by the CAISO's board of directors.

19. Construction of the Arizona portion of the Project would potentially reduce the Project's ability to access the Riverside East CREZs.

20. The California-only Project provides substantial benefits, including access to renewable resources in Riverside County, which outweigh the unavoidable adverse environmental effects of the Project as set forth in D.07-01-040. Hence, these benefits of the California-only Project constitute an overriding consideration warranting approval of the California-only Project.

21. Energy Division staff developed an Addendum to the Final EIR, and that Addendum is appended to this decision as Attachment 2.

22. The renewable resources in the Blythe area are too speculative to require the completion of a subsequent or supplemental EIR under CEQA.

23. The CAISO has not approved a California-only Project, and such approval is necessary to recover construction costs in FERC-administered transmission rates.

24. The modifications necessary for D.07-01-040 are in Attachment 1.

25. A.05-04-015 should be closed.

### **Conclusions of Law**

1. SCE's Amended Petition, as supplemented, satisfies the requirements of Rule 16.4.

2. SCE has not demonstrated that the costs and economic benefits of a California-only Project justify its construction on a purely economic basis.

3. SCE has not demonstrated that construction of a California-only Project is required to meet the state's RPS.

4. SCE has not demonstrated that the California-only Project meets the requirements set forth in California Pub. Util. Code § 399.2.5.

5. It is appropriate to take official notice of RETI Phase 1B Final Report and the RETI Phase 2A Draft Report.

6. The record demonstrates that the cumulative impact of the potential for renewable resources in the Riverside East CREZs, the substantial work and study already completed on the Project including certification of the Final EIR, the limited environmental impacts of building in an existing high voltage transmission corridor next to an existing 500 kV line, the lack of environmental opposition, and the uncertainty in terms of delay and cost in considering an alternative project to access these CREZs, make construction of the California-only Project necessary, reasonable and prudent, subject to approval by the CAISO's board of directors.

7. Because construction of the Arizona portion of the Project would potentially reduce the Project's ability to access resources in the Riverside East CREZs, SCE should seek Commission approval prior to pursuing the Arizona portion of the Project in the future.

8. Because the status of the CAISO's interconnection queue and executed interconnection agreements are critical to CAISO approval and the ultimate use of the California-only Project, we should require SCE to provide notice to the Director of the Commission's Energy Division on the status of the interconnection queue and interconnection agreements as they relate to the California-only Project every six months. Such notices should include information on both renewable interconnection requests and agreements, as well as information on conventional generation seeking interconnection to the California-only Project.

9. A Supplemental EIR is unnecessary for approval of the proposed modifications.
10. The benefits of the California-only Project constitute an overriding consideration warranting approval of the California-only Project.
11. The Addendum designated as Attachment 2 should be incorporated in the record of this proceeding.
12. To protect California ratepayers the Commission should direct SCE not to begin construction of the California-only Project until the CAISO Board approves the California-only Project.
13. A.05-04-015 should be closed.
14. This order should be effective immediately.

## O R D E R

### IT IS ORDERED that:

1. Decision (D.) 07-01-040 is modified as shown in Attachment 1. All other language in D.07-01-040 shall be read and understood to conform to those modifications.
2. The Addendum to the Final Environmental Impact Report designated as Attachment 2 is hereby incorporated into the record of this proceeding.
3. Southern California Edison Company shall seek Commission approval before resuming pursuit of the Arizona portion of the Devers-Palo Verde No. 2 Transmission Line Project.
4. Southern California Edison shall not begin construction of the California-only Project until the California Independent System Operator Corporation's board of directors approves construction of the California-only Project.
5. Application 05-04-015 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.