Decision **PROPOSED DECISION OF ALJ KOLAKOWSKI** (Mailed 8/11/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company for a Permit to Construct Electrical Facilities with Voltages Between 50kV and 200kV: El Casco System Project. (U338E)	Application 07-02-022 (Filed February 16, 2007)

DECISION DENYING PETITION FOR MODIFICATION OF DECISION 08-12-031

This decision denies the petition of Edward H. Leonhardt to modify Decision (D.) 08-12-031, which granted Southern California Edison Company a permit to construct electrical facilities for the El Casco System Project. Petitioner seeks to modify the grant of a permit to construct by requesting the rescission of D.08-12-031. This proceeding is closed.

1. Introduction

Southern California Edison Company (SCE) filed its application for a permit to construct (PTC) for the El Casco System Project (Project) pursuant to Commission General Order 131-D on February 16, 2007. Edward H. Leonhardt (Petitioner) filed a formal protest on March 16, 2007. SCE filed its reply to this protest on March 28, 2007 and then filed an Amendment to the initial application on July 17, 2007. Administrative Law Judge (ALJ) Kolakowski convened a prehearing conference on August 1, 2007.

The Commission conducted a thorough review of the Project pursuant to the California Environmental Quality Act and issued a Final Environmental Impact Report (FEIR) on April 18, 2008. SCE provided comments and substantial

additional testimony related to the ambient noise level and noise associated with operations of 115 kilovolt lines, which led Staff to reevaluate the conclusions of the Final EIR. The Recirculated Final EIR was released on October 17, 2008, and incorporated into the final decision approving the PTC. In December 2008, the Commission issued Decision (D.) 08-12-031, which granted SCE's application for a PTC for the Project and certified the Recirculated FEIR.

2. Procedural Background

Petitioner filed the present petition to modify D.08-12-031 on December 10, 2009. SCE filed its response (SCE Response) on January 7, 2010.

3. The Petition is Denied

The Petition alleges that the Electrical Needs Area defined in SCE's application in the present proceeding no longer exists, thereby nullifying the purpose and objectives of the Project.[1] The Petition further alleges that the primary finding of fact, Finding of Fact 21 of the decision,[2] is not true and so the decision rendered by the Commission on December 18, 2008, is illegal.[3] We conclude that the Petition is substantively deficient and deny the requested relief.

3.1. The Petition's Argument that the Purpose and Objective of this Project no Longer Exists is without Merit

Petitioner alleges that in light of the recession, financial difficulties in the banking and construction industries, high rate of foreclosures, and current unemployment rates, an Electrical Needs Area no longer exists and so the purpose and objective of the Project no longer exists. This claim is without merit.

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[1] Petition, Section 4.1 at 4.

[2] Finding of Fact 21 of D.08-12-031 states: "There is an urgent need for the El Casco Project to meet the projected capacity requirements of the Electric Needs Area."

[3] Petition, Section 5.1 at 5.

SCE has repeatedly demonstrated that there is a need for the project regardless of the allegations brought forth by the Petitioner. SCE's Proponent Environmental Assessment and the Recirculated Final EIR both showed positive load growth, even if the rate of load growth has been lower than the 2005 forecast.[4] Furthermore, the Project is designed to not only serve forecasted electrical demand in the Electrical Needs Area, but also to maintain current levels of service to customers in this area in a safe and reliable manner.

Petitioner's sweeping statements assume huge impacts on the Project without directly linking these allegations to the Electrical Needs Area or the Project itself. These statements are unpersuasive compared to the actual numbers and studies on the record in this proceeding which continue to show a need for the project. Therefore, the Petitioner's assertion that the purpose and objective of the Project no longer exists is without merit.

3.2. The Petition's Argument that Finding of Fact 21 is Untrue is Unpersuasive

The Petitioner believes that Finding of Fact 21 is untrue, and further argues that absent confirmation of the validity of Finding of Fact 21 by the Commission at this time, that D.08-12-031 should be rescinded. However, Petitioner gives no supporting facts or reasoning to support this allegation, nor does he justify the requested relief based upon statute or rule. This contention is merely Petitioner's opinion about the Finding of Fact and without further analysis or explanation, it is unpersuasive.

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[4] SCE Response at 5.

4. 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. No Comments were filed.

5. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Victoria S. Kolakowski is the assigned ALJ in this proceeding.

Findings of Fact

1. The Petition presents no new facts pursuant to Rule 16.4(b). Therefore, the Commission is bound to follow the existing record in this proceeding.
2. The Petition stated the justification for the requested relief as required by Rule 16.4(b).
3. The Petition was filed and served upon all parties to the proceeding within one year of the effective date of the decision, as required by Rules 16.4(c) and (d).
4. Petitioner has failed to demonstrate that the Electrical Needs Area no longer exists.
5. Petitioner has not demonstrated that Finding of Fact 21 is untrue or explained how such a belated finding would affect this proceeding.

Conclusions of Law

1. The Petition meets the procedural requirements of Rule 16.4(c)-(h).
2. The Petitioner's arguments that the purpose and objective of the Project no longer exists are without merit.
3. The Petitioner's assertion, without supporting facts, law, or rationale, that Finding of Fact 21 is untrue is unpersuasive.
4. The Petition should be denied.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 08-12-031 filed by Edward H. Leonhardt on December 10, 2009 is denied.
2. Application 07-02-022 is closed.

This order is effective today.

Dated _____, at San Francisco, California.