

Decision **DRAFT DECISION OF ALJ MALCOLM (Mailed 9/15/03)****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 San Mateo-Martin No. 4 60 kV Conversion Project Pursuant to General Order 131-D.

(U 39-E)

Application 02-11-051
(Filed November 27, 2002)

O P I N I O N

Pacific Gas and Electric Company (PG&E) seeks a Permit to Construct certain modifications to 12 miles of transmission line between the San Mateo substation and Martin substation south of San Francisco. The Commission has conducted an environmental review and prepared a Final Mitigated Negative Declaration (FMND) that guides construction and analyses potential risks to the environment posed by the project. Our order today adopts the FMND and authorizes construction of the proposed project known as the San Mateo Martin Conversion Project.

I. Procedural Background

PG&E filed this Application on November 27, 2002. Pursuant to California Environmental Quality Act (CEQA), Pub. Resources Code §§ 21000-21176, and the California Public Utilities Commission's (CPUC) Rules of Practice and Procedure Section 17.1, the utility also submitted a Proponent's Environmental Assessment (PEA), which evaluates the potential environmental impact(s) of the project. The PEA concluded that the project would have no significant impact on

the environment. The Commission subsequently engaged a contractor to conduct an environmental review.

The Citizens of Randolph-Hillside Community in South San Francisco (“Citizens”) protested PG&E’s Application. The Citizens are 68 local residents of the area where PG&E proposes to upgrade existing transmission lines. The Citizens’ initial protest raised concerns over noise from existing power lines, the health effects of electric and magnetic fields (EMFs) and disruptions to cable television broadcasts.

Following analysis and inspections of the project and its site, the Commission issued for comment a Draft Mitigated Negative Declaration (“DMND”) and a Mitigation and Monitoring Plan (MMP) in compliance with CEQA. The Commission publishes an MND rather than an Environmental Impact Report (EIR) in cases where an initial study demonstrates either that: (1) there is no evidence that the project will have a significant effect on the environment; or (2) revisions to the proponent’s plan would avoid project effects or mitigate the effects to the point where no significant effect on the environment will occur.

The Commission distributed the DMND to relevant federal, state, and county agencies and to owners of property located within 300 feet of the project site. Following issuance of the DMND, the Commission held a prehearing conference and public participation hearing on August 7, 2003, in South San Francisco. Representatives of the Citizens and several local residents attended the hearing and raised concerns regarding health and safety of the project. PG&E and Commission staff responded to questions raised by the public.

The public review period for the DMND was 30 days, (as required by CEQA guidelines § 15105), and ended on August 19, 2003. The Citizens submitted comments on the DMND on August 21, 2003, arguing that the document was not sufficient. The comments ask the Commission to conduct a complete EIR that identifies alternatives to the proposed project. CEQA requires the preparation of an EIR in cases where the proposed project would potentially cause significant environmental harm. For reasons discussed below, this project will not cause significant environmental harm. Accordingly, we deny the request to prepare an EIR in this case.

After receiving comments on the DMND and responding to all comments, modifications were incorporated in the DMND and the Initial Study. Subsequent to this, Energy Division staff issued a FMND on September 4, 2003, for the Commission to consider in determining whether to approve the project or not. The FMND determines that the project will not create any significant environmental impacts if PG&E constructs the project subject to certain specified procedures.

II. Project Description

The proposed “reconductoring” project would convert a 60 kilovolt (kV) power line to 115 kV over a 12-mile course between the San Mateo Substation in San Mateo and the Martin Substation in Brisbane. The new lines would be strung along existing towers located in San Mateo County, south of San Francisco. The project runs through residential neighborhoods and along Highway 101 through several cities, including Brisbane, San Mateo, Burlingame, Millbrae, San Bruno, South San Francisco and Daly City.

The project would permit an additional 135 megawatts of power to be transmitted into northern San Mateo County and San Francisco. Proposed

construction activities anticipate the placement of new wires (or conductors) and insulators on existing towers and modifications to existing substations. The project does not require the installation of new towers, foundations or access roads.

PG&E asserts the project is critically important to the California Independent System Operator (ISO) and the City and County of San Francisco (CCSF). PG&E explains that a recent transmission study conducted with the ISO, CCSF and Commission staff, suggests the existing lines between the San Mateo and Martin substations may become overloaded in the fall of 2004. The potential for overloading is especially high if the power plants in San Francisco become unavailable to provide local power.

PG&E intends to complete construction by November 1, 2003, in the West of Bayshore parcel in order to minimize environmental effects on the red-legged frog and the San Francisco garter snake. PG&E intends to complete construction by the end of February 2004 in the San Bruno Mountain area in order to minimize environmental impacts on certain butterfly species. PG&E states it needs to begin construction by September 18, 2003, to meet these timetables.

III. Discussion

The Commission must conduct a review of potential environmental impacts, consistent with CEQA. While the Commission's authority and responsibility extend beyond the environmental review required by CEQA, in this case, the only issues raised by members of the public concern matters that are predominantly addressed in the FMND.

A MMP has been prepared to ensure that the mitigation measures for this project are properly implemented. The Plan describes specific actions required

to implement each mitigation measure, including information on the timing of implementation and monitoring requirements.

Based on the analysis of the Initial Study/Draft MND and the FMND, and the mitigation measures identified therein and incorporated into the project, the Commission finds that the project will not have a significant effect on the environment. Accordingly, we adopt the FMND and grant PG&E's request for approval of the project. We do so with the understanding that the proposed project, as mitigated, will impose no significant harm on the environment and that the project is needed in order to improve system reliability in San Francisco and North San Mateo County. We clarify that the analysis here refers only to the proposed project that is before us and is not intended to offer any opinion or to reexamine the existing transmission facilities or potential impacts on the local environment, businesses or residences.

The project addresses the concerns of local citizens as follows:

EMFs. The Citizens' initial protest and comments on the DMND raise concerns that the project will increase EMF exposure and affect the health of local residents. The Commission's current policy, articulated in Decision (D.) 93-11-013, created the California EMF program to research and provide assistance on the possible health effects of exposure to EMF from power lines and other uses of electricity. The EMF program provides education, funding and technical assistance to government agencies, professional organizations, businesses, and members of the general public. Pursuant to D.93-11-013, this program is funded by ratepayers and administered by the State Department of Health Services ("DHS"). The California EMF program produces periodic

reports to the CPUC, and its goal is to develop research, policy analysis, and educational products that will be useful to the CPUC in future decision making.

The utilities are encouraged to invest in “low cost, no cost” mitigation measures that cost less than 4% of total project cost. For the San Mateo to Martin Project, PG&E will use optimal phasing to reduce the existing EMF levels. Optimal phasing involves inverting the phasing of one circuit on the same towers so that the magnetic fields emitted by the circuits cancel each other out more effectively. By increasing the load of the #4 circuit to similar loading levels as the other circuits on the San Mateo-Martin towers, the magnetic fields levels are lower through optimization of the cross-phase cancellation. The magnetic field levels on the ground would decrease with the resulting cross-phasing and load balancing. The optimal phasing that would be conducted by PG&E would be in compliance with the CPUC's EMF Decision (D.93-11-013) and PG&E's Transmission EMF Design Guidelines prepared in accordance with that decision.

In this case, PG&E asserts and Commission staff confirms that the reconductoring project will reduce EMFs along the transmission line corridor. The MND presents a table showing the projected change in EMF values at different distances from the lines (Table 6.3-1). In some cases, EMF emissions would fall to less than one quarter of their existing levels. PG&E also offered to test EMF levels in local residents' property, at the request of the resident, both before and after construction.

Because the project will reduce EMF exposure and because this proceeding reviews only the effects of the proposed project, we do not require additional EMF mitigation measures for the project, except consistent with its position herein, PG&E shall test a resident's EMF emissions before and after project construction, at the request of resident.

Noise from Facilities. Citizens' initial protest complained that existing transmission facilities in their area buzz in certain weather conditions. This buzzing may occur when existing ceramic insulators are dirty and retain moisture. PG&E's plan anticipates replacing existing ceramic insulators with insulators that would not make buzzing noises. The new insulators

would also benefit local residents because they would not require cleaning by way of helicopters. PG&E explained this change to parties who attended the public participation hearing. The Citizens also raised this issue in their Comment letter on the DMND submitted on August 21, 2003 (see FMND; Responses 4.3, 6.6 and 7.4).

Interference with cable television reception. In their initial protest, the Citizens raise concerns that existing lines interfere with reception of cable television. At the hearing, PG&E explained that transmission lines would not create interference with cable television reception, which is confirmed by the FMND. The Citizens also raised this issue in their Comment letter on the DMND submitted on August 21, 2003 (see FMND; Response 6.7).

Impacts on Local Wildlife and Habitat from Construction Work. The Citizens raise concerns that local wildlife will be displaced during construction and complain that the MND does not address how wildlife will be adequately protected. The FMND includes applicant proposed mitigation measures and additional mitigation measures imposed by the CPUC to protect sensitive species and habitat in the project area. A discussion of these measures can be found on pg. B.4-1 of the DMND and on pg. C-1 of the FMND. These measures are specifically intended to protect, among others, the California Red Legged Frog, the San Francisco Garter Snake, the Callippe Silverspot Butterfly, the Mission Blue Butterfly and the San Bruno Elfin Butterfly. In addition, PG&E has agreed to complete a Construction Staging Plan before entering each sensitive biological area along the project route. A sample Construction Staging Plan form is provided in Appendix H of the DMND.

The Mitigation Implementation Monitoring Plan on pg. D-1 of the FMND and the Construction Staging Plan documents how the various mitigation measures will be implemented during construction and the responsibilities of the PG&E and CPUC representatives.

These measures have been developed with the participation of the federal, state and local agencies that are responsible for protecting any sensitive species or habitat in the project area. Implementation of the measures in the FMND will reduce the potential impact on wildlife and habitat to a less than significant level.

Property Values. In their initial protest and comments on the DMND, the Citizens raise concerns that the project will affect property values. The FMND finds that the project does not change the appearance of the transmission facilities or surrounding property. Moreover, the project will reduce environmental impacts of the existing facilities by reducing EMFs and noise levels. There is no evidence to suggest the project would reduce property values if it were constructed in conformance with the FMND.

Noise from Construction. The FMND finds that noise impacts will be temporary and not significant. The project will not require heavy machinery in the neighborhoods of protestants. Helicopters may be used to transport equipment in the area but would be at the site for less than twenty minutes a day for no more than two days.

We herein find that the proposed project would not cause any significant effect on the environment if it is constructed consistent with the MND and MMP. Therefore, we adopt the FMND and approve the project.

IV. Reduction of Comment Period

The draft decision in this proceeding was mailed September 15, 2003, less than 30 days from the date the decision is to be included on the Commission's agenda for its October 2 meeting. Rule 77.7(f)(8) permits the Commission to reduce the normal publication period from 30 days in CEQA proceedings because the public has already had an opportunity for review and comment. Comments must be filed and served by September 29, 2003. No reply comments will be accepted. No comments were received.

V. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Kim Malcolm is the assigned Administrative Law Judge.

Findings of Fact

1. The proposed project will reduce EMFs from the lines on existing transmission towers.
2. The proposed project will reduce noise now made by ceramic insulators.
3. The proposed project will not cause interference with local cable television reception.
4. There is no evidence to suggest the proposed project will reduce local property values.
5. The FMND conforms for our decision making purposes to the requirements of CEQA and is adequate.
6. The FMND identified no significant environmental effects of the project that could not be avoided or reduced to non-significant levels by changes to the project that have been accepted by PG&E
7. The Commission has independently considered the FMND in determining to approve the San Mateo Martin Project.

8. The Commission finds that the San Mateo Martin Project will not have a significant effect on the environment.

Conclusions of Law

1. An evidentiary hearing is not required.
2. The FMND and Final MMP were prepared in compliance with the CEQA and the CEQA Guidelines, and are adequate for the Commission's decision making purposes.

3. The application should be granted, subject to the environmental requirements set forth in the FMND and Final MMP.

4. Because of the need for timely action, today's Decision should be made effective immediately

O R D E R

IT IS ORDERED that:

1. The application of Pacific Gas and Electric Company (PG&E) for a Permit to Construct the San Mateo Martin No. 4 60 kilovolt Conversion Project is granted to the extent and with the conditions set forth herein.

2. The Final Mitigated Negative Declaration (FMND) and Final Mitigation Monitoring Program are identified as Exhibit 1 and are received into evidence on September 9, 2003.

3. The FMND is adopted pursuant to the requirements of the California Environmental Quality Act.

4. The Mitigation Monitoring Plan included in the FMND is adopted and made a condition of project approval.

5. The Commission's Project Manager is authorized to issue a Stop Work Order on the entire project, or portions thereof, for the purposes of insuring compliance with adopted mitigation measures. Construction may not resume without a Notice to Proceed issued by the Commission's Project Manager.

6. PG&E shall test a resident's EMF emissions before and after project construction at the request of the resident.

7. PG&E shall send a copy of this decision to concerned local permitting agencies and the residents of Randolph-Hillside Community not later than 30 days from the date of this order.

8. The request of the Citizens of Randolph-Hillside Community for the Commission to prepare an environmental impact report on the subject project is denied.

9. Application 02-11-051 is closed.

This order becomes effective immediately.

Dated _____, at San Francisco, California.