

Decision **DRAFT DECISION OF ALJ MALCOLM** (Mailed 6/8/2004)

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

Application of San Diego Gas & Electric Company (U 902 E) for a Certificate of Public Convenience and Necessity for the Miguel – Mission 230kV #2 Project.

Application 02-07-022  
(Filed July 12, 2002)

**OPINION CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT AND GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE MIGUEL MISSION PROJECT**

**I. Summary**

This order certifies the Final Environmental Impact Report (FEIR) as the Environmental Impact Report (EIR) for the transmission line facilities that are the subjects of this application. We certify the EIR for use by responsible agencies in considering subsequent approvals for the project, or for portions thereof.

This order also grants a certificate of public convenience and necessity (CPCN) to San Diego Gas & Electric Company (SDG&E). The project we approve today modifies SDG&E’s original proposal by requiring it to underground the existing 138 kilovolts (kV) and 69 kV circuits, 1.35 miles through the City of Santee and 3.5 miles through the Jamacha Valley, rather than construct these lines overhead as originally proposed. Specifically, the project we approve is the proposed project as modified by the Jamacha Valley 138 kV/69 kV Underground Alternative and the City of Santee 138 kV/69 kV Underground Alternative. This modified project is the preferred alternative recommended by the EIR in this application.

## II. Overview and Procedural Background

SDGE filed this application on July 12, 2002, seeking a CPCN to construct additional transmission and distribution capacity to meet electricity demand in its territory. The project would run through the cities of San Diego and Santee and in unincorporated areas of San Diego County. The project would include (1) the installation of a new 230 kV circuit on modified steel lattice structures within the existing 35-mile SDG&E right-of-way (ROW) located between the Miguel and Mission substations; (2) relocation of the existing 138 kV and 69 kV circuit onto a new alignment of poles within the existing right of way; and (3) modification of the Miguel Substation and the Mission Substation to accommodate the new 230 kV circuit. These facilities, for which a CPCN is required, are part of a number of activities whose purpose is to enable the transmission of power from new generation resources and the importation of 560 megawatts (MW) to areas north of the Miguel substation. The larger project, for which the economic benefit and costs are given hereinafter, includes apart from the facilities listed above, a second 500/230 kV transformer bank and 500 kV series capacitors at Imperial Valley Substation, a 500/230 kV transformer bank and gas insulated 500 kV switchgear at Miguel Substation and the reconductoring of a 138 kV transmission line connected to Miguel Substation.<sup>1</sup> SDG&E states the facilities are needed to improve regional and statewide reliability and operational flexibility. This project is referred to as the Miguel Mission Project.

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<sup>1</sup> The project activities covered by SDG&E's CPCN application require CEQA review pursuant to General Order (GO) 131-D and are studied in the EIR. The substation and reconductoring activities do not require CEQA review under GO 131-D.

The California Environmental Quality Act (CEQA)<sup>2</sup> requires the Commission to consider the environmental consequences of its discretionary decisions. Accordingly, the Commission has engaged environmental consultants to prepare an EIR evaluating the proposed project and project alternatives. The purpose of the report is to identify potentially significant environmental effects associated with the proposed project, and propose mitigation measures and project alternatives that would minimize environmental consequences.

The Commission held a prehearing conference in this proceeding on February 4, 2004, at which parties discussed the scope of issues and whether hearings would be required. Subsequently, the Assigned Commissioner and administrative law judge (ALJ) issued a scoping memo and ruling summarizing the issues and requiring certain cost information from SDG&E and the California Independent System Operator (ISO). Commission staff issued a draft EIR (DEIR) on April 1, 2004, and received 30 sets of comments on May 17, 2004.<sup>3</sup> Commission staff incorporated those comments into the FEIR and considered them in preparing final recommendations.

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<sup>2</sup> The CEQA statute appears at Cal. Pub. Res. Code § 21000 *et seq.*

<sup>3</sup> The comments were filed by SDG&E, Border Generation, California Department of Transportation, Padre Dam Municipal Water District, Institute de Informatica, Dalour Younan, San Diego County Water Authority, John Moods Helix Water District, Federal Aviation Administration, City of Santee, San Diego Board of Supervisors, U.S. Fish & Wildlife Service, California Department of Fish & Game, Barona Band of Mission Indians, San Diego Regional Chamber of Commerce, Barratt American, Inc., Bob Meijer, Michael Bortoli, Lonna & Mike Perry, Mary England, John Bruhn, Santee Citizens for Safe Power, Arten and Elaine Watt, J. Michael Cowell, Linda Kirk, Ruth Jones, Katherine Marsh, Kevin Marsh, and Bob and Gail Crawford.

After SDG&E filed this application, the Commission considered the project as part of a review of regional transmission constraints in Investigation (I.) 00-11-001, the Commission's transmission planning proceeding. In that docket, we issued D.03-02-069, which found a need for the Miguel Mission Project, set a cost cap for the project and addressed project construction "milestones." The primary task in this proceeding is to resolve matters concerning environmental quality in compliance with CEQA. This order also addresses the cost cap and milestones adopted in D.03-02-069.

### **III. Public Participation in EIR Review Process**

During the course of the CEQA review, the Commission provided various opportunities for public involvement, as required by CEQA, and took advantage of the insights and ideas of community members. The Commission issued a "notice of preparation" (NOP) of an EIR on September 5, 2003, and distributed it to the State Clearinghouse, city, county, state and federal agencies, affected state and federal legislators, local elected officials, and members of the public adjacent to the proposed transmission line route. Interested parties had 30 days to submit comments regarding the scope of the EIR. The Commission received e-mails and letters from 63 members of the public in response to the NOP.

The Commission held two scoping meetings prior to developing project alternatives to study and mitigation measures to consider. These meetings provide the Commission with input from the public regarding the proper scope and content of the EIR. The Commission held these scoping meetings on September 15, 2003, in the Spring Valley Branch Library in Spring Valley and on September 16, 2003, in the Santee City Hall in Santee. Approximately 34 people attended the scoping meetings. Among the parties who submitted written or verbal comments were individuals, the City of San Diego, the City of Santee, the

County of San Diego Department of Parks and Recreation, the County of San Diego Department of Planning and Land Use, the Otay Water District, the Padre Dam Municipal Water District, the Miramar Marine Corps Air Station, the Cajon Valley School District, and two community groups called Preserve Wild Santee and Santee Citizens for Safe Power. These organizations and a number of individuals raised a variety of concerns, which are described in more detail in the final EIR:

- The need for the project and whether SDG&E had justified constructing the project;
- Impacts on the quality of life, including health risks associated with EMF exposure, visual impacts, effects on local property values and potential conflicts with other community uses such as fire protection, traffic, and recreation;
- Impacts on the natural environment including local habitat, plants and wildlife especially in identified upland and wetland areas;
- Project alternatives, including undergrounding, route modifications, and pole design; and
- Environmental decision-making process, including the fairness of the process, the need for good information about project status and the need to conduct a thorough environmental evaluation.

Commission staff subsequently issued a scoping report summarizing issues and concerns identified by the public and various agencies during the scoping process. The Commission made the report available for review at local EIR Information Repositories and on the Internet. The report determined that

CEQA requires the Commission to conduct an EIR. Commission staff subsequently engaged the services of an environmental consultant and supervised its work on a DEIR.

The Commission notified the project mailing list on April 1, 2004 of the availability of the DEIR. In May 2004, the Commission held four public participation hearings and informational meetings in the project corridor. Two were held in the City of Santee, one in the City of El Cajon and one in the City of Spring Valley. The purpose of the meetings was to describe the proposed project, the findings of the DEIR, and how to participate in the Commission's decision-making processes. Members of the public spoke at the meetings, mostly in favor of project undergrounding.

The public review period for the DEIR ended on May 17, 2004 when the Commission received comments from 30 parties and members of the public. The FEIR considers these comments. The comments in favor of the project mostly raised concerns with the need to relieve regional congestion and associated ISO costs, the costs of delaying construction and the limited benefits associated with undergrounding alternatives. Comments critical of the project raised concerns with the impact of EMF levels on health, the loss of property values, the visual impact of overhead lines in residential areas, noise from overhead lines and the effects of the project on natural habitat and wildlife, among other things.

#### **IV. The Proposed Project**

The Miguel Mission Project would begin at the Miguel Substation in Bonita and terminate at the existing Mission Substation outside the community of Tierrasanta in San Diego County. The project would run along an existing right of way located in portions of the City of San Diego, the City of Santee, unincorporated areas of San Diego County and the Marine Corps Air Station

Miramar property. The project would traverse hills, valleys, mesas and ravines. It would run through commercial and industrial neighborhoods, residential developments, county and regional parks, a wildlife refuge and golf courses.

The proposed project includes the following major elements:

- Installation of a 35 mile, single circuit 230 kV transmission circuit between Miguel Substation and Mission Substation. The existing 138 kV/69 kV steel lattice tower structures would be replaced or modified to accommodate the larger 230 kV circuit for approximately 24 miles between the Miguel Substation and Fanita Junction;
- Relocation of existing 138 kV and 69 kV circuits onto a newly constructed alignment of wood and steel pole structures within the existing SDG&E right-of-way between Miguel Substation and Fanita Junction; and
- Modifications to the Miguel and Mission Substations to accommodate the new 230 kV transmission line, including the installation of new circuit breakers, switches and controls, new concrete foundations for equipment, and new steel support structures.

## **V. Summary of EIR and EIR Alternative Projects**

The Commission staff determined that CEQA requires the development of an EIR for this project. CEQA guidelines require that a project EIR “shall describe a reasonable range of alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” (CEQA Guidelines Section 1512(a).) The EIR studies the proposed project, five route alternatives and the No Project alternative, as required by CEQA. It then compares each alternative with the proposed project applying several environmental criteria to that comparative analysis.

## A. Project Alternatives

The EIR developed alternatives on the basis of comments and suggestions by the general public, and federal and State agencies. The EIR preparers developed additional alternatives and the proposals included in SDG&E's PEA. Of 16 identified alternatives, the EIR follows the CEQA screening process for alternatives and eliminates 11 on the basis that they are in some way not feasible, inconsistent with project objectives, or would not mitigate environmental impacts. Consistent with CEQA guidelines, the EIR does not discount any alternative on the basis of costs or other economic factors (CEQA Guidelines Section 16126.6(b)). Among the alternatives rejected were demand-side management, renewable generation resources, and certain routing options.

The EIR includes a detailed analysis of the remaining five alternatives. These five project alternatives to be studied in the EIR were chosen on the basis that each is technically and legally feasible, consistent with the objectives of the project, and either avoid or reduce potentially significant environmental effects. They are as follows:

### 1. **Jamacha Valley 138 kV/69 kV Underground Alternative**

The Jamacha Underground Alternative would underground 3.5 miles of circuit from Willow Glen Drive to new wood or steel poles in the exiting right of way. The alternative would address the concerns of local residents regarding long-term visual impacts and EMF emissions associated with the proposed project. The project would eliminate the need for any new poles through the Jamacha Valley and would reduce the final number of overhead conductors from nine to six (three for the existing 230 kV line and three for the new 230 kV line). The Jamacha Undergrounding Alternative would reduce construction impacts in the Cottonwood area, avoiding eight known cultural resources sites and impacts on local habitat. The project would reduce corona noise

levels where lines would be undergrounded. This alternative is consistent with SDG&E's project objectives.

**2. Jamacha Valley Overhead A Alternative**

The Jamacha Valley Overhead A Alternative (Jamacha Valley A Alternative) would locate the 138 kV and 69 kV circuits on new steel poles on the east side of the right of way, downslope from the location of the proposed project along Herrick Center at Steele Canyon Road and Jamul Drive to Hillsdale Road. This project alternative would reduce visual impacts for residents of the Cottonwood community.

**3. Jamacha Valley Overhead B Alternative**

The Jamacha Valley Overhead B Alternative (Jamacha Valley B Alternative) would replace 12 existing steel lattice structures and 12 proposed steel lattice structures with steel mono-poles. This alternative would mitigate visual impacts near the Herrick Center at Steele Canyon Road and Jamul Drive.

**4. City of Santee 138 kV/69kV Underground Alternative**

The City of Santee 138/69 kV Underground Alternative (Santee Underground Alternative) would eliminate the need to install three 138 kV wood and steel poles and eliminate two existing 138 kV wood poles. Instead, the existing circuits would be relocated underground for approximately .6 miles outside the Miguel Mission right of way and .75 miles along the length of Princess Joann Road. An existing 138 kV circuit would be relocated underground along Princess Joann Road to Magnolia Avenue. This alternative would improve visual impacts to residents of Santee and reduce biological impacts, soil erosion and impacts on known cultural resources because construction would occur in city streets rather than within the existing SDG&E right of way. It would reduce corona noise levels along the right of way on Willow Glen Drive.

### 5. **City of Santee 230 kV Overhead Northern Right of Way Boundary Alternative**

The City of Santee 230 kV Overhead Northern Right of Way Boundary Alternative (Santee Overhead Alternative) would site the 230 kV circuits along the northern side of the existing right of way near Princess Joann Road. Because the circuits would be sited further from the residents of Santee, this alternative would reduce visual impacts, corona noise and construction activity for those residents.

### **B. Environmentally Preferred Alternative**

The EIR analyzes and compares each alternative route by considering several types of environmental impacts:

- Air quality
- Biological resources
- Cultural resources
- Geology, soils and paleontology
- Hydrology and water quality
- Land use and recreation
- Noise and vibration
- Public health and safety
- Public services and utilities
- Socioeconomic impacts
- Transportation and traffic
- Visual resources

The EIR does not consider project or mitigation costs and does not analyze the impacts of EMFs on human health. The EIR develops the preferred routes by comparing SDG&E's proposed project to the alternatives through the Jamacha Valley, on the one hand, and the City of Santee, on the other, as discussed below.

**Jamacha Valley Routes.** The EIR compares the proposed project with three alternatives considered for the area around Jamacha Valley: Jamacha

Valley 138 kV/69 kV Undergrounding Alternative, Jamacha Valley Overhead A Alternative, and Jamacha Valley B Alternative. Table A of the EIR shows a summary comparison of the proposed project and three alternatives for various environmental impacts. For this portion of the route, the EIR identifies the Jamacha Valley 138 kV/69 kV Undergrounding Alternative as preferred because it eliminates long-term and permanent visual impacts. It is also preferred with respect to impacts associated with biological resources, geology, soils and paleontology, and hydrology and water quality.

**City of Santee Routes.** The EIR compares the proposed project with two alternatives considered for the area around the City of Santee: the Santee 138 kV/69 kV Underground Alternative and the Santee 230 kV Overhead Northern ROW Boundary Alternative. Table B shows a summary comparison of the project for various environmental impacts. The EIR concludes that the Santee 138 kV/69 kV Undergrounding Alternative is preferred because it would provide long term and permanent mitigation to visual impacts, as well as avoid or reduce impacts to biological resources and known cultural resources. Although it would increase other construction-related impacts due to the slower pace of underground work, the impacts may be mitigated and are short-term.

**No Project Alternative.** The EIR also considered the impacts of not building the Miguel Mission Project or some variation of it. The EIR finds that not building the project would require SDG&E or another entity to augment existing facilities with new transmission or generation capacity to compensate for existing system limitations. It notes the possibility that without the project some generation projects may have to be cancelled if new transmission capacity were not available and that new generation capacity could be necessary to compensate for existing transmission system limitations and projected loads. However, it

would be speculative to predict specific developments at this time. It refers to the likelihood of increased congestion fees imposed by the California ISO on SDG&E customers if the project is not built.

**The Environmentally Preferred Project.** The EIR recommends that if the project is approved, the proposed project should be modified to include the Santee 138 kV/69 kV Undergrounding Alternative and the Jamacha Valley 138 kV/69 kV Underground Alternative. The proposed project would be modified to include the following segments:

<b>Segment</b>	<b>Preferred Route</b>
Miguel Substation to Jamacha Valley	Proposed Project Jamacha Valley
Jamacha Valley 138 kV/69 kV	Underground Alternative
Jamacha Valley to City of Santee	Proposed Project
City of Santee	Santee 138 kV/69 kV Underground Alternative
City of Santee to Mission Substation	Proposed Project

### **C. Electric and Magnetic Fields**

The Commission's CEQA review does not consider electric and magnetic fields (EMF) or their impacts on health and the environment. The Commission has thus far declined to conduct such analysis because the scientific community does not agree as to whether EMF creates a potential health risk. However, recognizing that there is a great deal of public interest and concern regarding potential health effects from exposure to EMF from power lines, the EIR provides information regarding EMF associated with electric utility facilities

and the potential effects of the proposed project and alternatives related to public health and safety.

EMFs are present in the existing environment both naturally and as a result of human activities that use electricity. Research on ambient magnetic fields in homes in several western states found average magnetic field levels to be approximately 1 milligauss (mG), while in the immediate area of appliances, the measured levels ranged from 9 to 20 mG. The project will generate EMFs above and beyond ambient levels, but within the range anticipated for power lines of this type and size. The fields from the project will be very localized since field strength attenuates rapidly as distance from the source increases.

Generally, in the Miguel Mission project area, the magnetic field levels for the existing 230/138/69 kV line range from 3 to 8 mG at a distance of 50 feet from the right of way. Field levels are estimated to range from 8 to 27 mG for the rebuilt lines (the proposed project) at a distance of 50 feet from the right of way.

While there is still no consensus in the scientific community regarding health risks of EMF exposure, DHS reported troubling indications that EMF exposure may increase risk of certain diseases and other health problems. We believe the time is ripe to update our earlier investigation and, in particular, to address the policy implications of DHS' findings. There is value in addressing such issues in an investigatory setting in order to avoid the need for such ad hoc treatment in future certificate proceedings. To this end, we plan to issue, either concurrently with this order or shortly thereof, an Order Instituting Investigation into EMF issues. We contemplate that this investigation will address a range of EMF-related issues comparable to those examined in I.91-01-012. EMF levels from transmission lines are not regulated nationally although several states have established maximum electric and magnetic field levels, for transmission lines,

maximum magnetic field exposure levels are generally 150 mG or greater at the edge of the right of way.

The Commission has not adopted any specific limits on EMF. However, in D.93-11-013, the Commission directed the utilities to fund a research program on the health effects of EMFs, and we required utilities to adopt “low-cost” or “no-cost” EMF mitigation measures for transmission lines and substations, up to approximately 4% of total project cost, such as those included in the proposed project and alternatives.

D.93-11-013 created the California Electric and Magnetic Fields Program to research and provides education and technical assistance on the possible health effects of exposure to electric and magnetic fields from power lines and other uses of electricity. The California Department of Health Services (DHS) is leading ongoing research and policy analysis for this program. In addition to funding research and policy analysis on this issue, the EMF program provides education and technical assistance to government agencies, professional organizations, businesses, and members of the general public. A recent report issued by DHS, funded by the Commission, raises concerns that prolonged exposure to EMFs may be associated with childhood leukemia, brain cancer, Lou Gherig’s disease and miscarriages. The Commission has not considered the public policy implications of this report.

Although the use of underground transmission is not proposed here to specifically address EMF levels, placing transmission lines underground can produce EMF reduction benefits. Although underground EMF field levels can be quite high directly over the centerline of the cable route, when compared to field levels from overhead lines, those from underground lines decrease much more rapidly with lateral distance.

**D. Statement of Overriding Considerations  
and Recommended Mitigation Measures**

CEQA requires that agency approval of SDG&E's proposed project or an alternative may require modifications or mitigations to avoid significant effects on the environment. If specified considerations make the mitigation measures or alternatives identified in the FEIR infeasible, they must be identified and the agency must explain how benefits of the project outweigh significant effects on the environment.

The EIR identified potential environmental impacts for the proposed project and various alternatives in the areas of air quality, biological resources, cultural resources, land use and recreations, hydrology and water quality, visual resources, transportation and traffic, public services and utilities, public health and safety, geology, and noise and vibration. The mitigation measures recommended in the EIR for the proposed project as modified by the alternatives adopted are summarized in the Attachment. The adoption and implementation of these mitigation measures was assumed in the determination of impact levels in the EIR. With mitigation, it was concluded that all potential environmental effects could be mitigated to less than significant levels. Therefore, implementation of these mitigation measures is a condition of the approval of this project.

In addition to the mitigation measures, the EIR assumes that the additional mitigation measures proposed by SDG&E in its Proponent's Environmental Assessment will be implemented as part of the project description. These measures, called Applicant Proposed Measures, and those additional mitigation measures recommended by the EIR would reduce impacts

to an acceptable level. The Commission assures compliance according to the associated Mitigation Monitoring, Compliance and Reporting Program.

The EIR concludes that neither the proposed project nor the recommended preferred alternative route will have a significant impact that cannot be mitigated if the project is built in conformance with the EIR and PEA. Therefore, we do not need to justify the project with a statement of overriding considerations in order to approve the project.

#### **E. Adequacy and Certification of the FEIR**

The lead agency must certify the FEIR before a project may be approved. Certification consists of two steps. First, the agency must conclude that the document has been completed in compliance with CEQA, and second, the agency must have reviewed and considered the FEIR prior to approving the project. Additionally, the lead agency must find that the FEIR reflects its independent judgment (Pub. Res. Code § 21082.1(c)(3).)

The FEIR must contain specific information according to the CEQA Guidelines, Sections 15120 through 15132 (CEQA Guidelines).<sup>4</sup> The various elements of the FEIR satisfy these CEQA requirements. The FEIR consists of the DEIR, with revisions in response to comments and other information received. The FEIR contains the comments received on the DEIR and individual responses to these comments.

The Commission must conclude that the FEIR is in compliance with CEQA before finally approving SDG&E's request for a CPCN. The basic purpose is to insure that the environmental document is a comprehensive, accurate, and

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<sup>4</sup> Cal. Admin. Code §§ 15122-131.

unbiased tool to be used by the lead agency and other decisionmakers in addressing the merits of the project. The document should embody “an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the consideration of qualitative as well as quantitative factors.”<sup>5</sup> It must be prepared in a clear format and in plain language.<sup>6</sup> It must be analytical rather than encyclopedic, and emphasize alternatives over unnecessary description of the project.<sup>7</sup> Most importantly, it must be “organized and written in such a manner that [it] will be meaningful and useful to decisionmakers and the public.”<sup>8</sup>

The FEIR meets these tests. It is a comprehensive, detailed, and complete document that clearly discusses the advantages and disadvantages of the environmentally superior routes, SDG&E’s proposed route, and various alternatives. We find that the FEIR is a competent and comprehensive informational document, as required by CEQA.

We herein certify the FEIR for the Miguel Mission Project.

#### **F. Adopted Miguel Mission Project**

This decision approves the “environmentally-preferred alternative” (EPA) identified in Table ES-1 of the final EIR for the Miguel Mission Project. The EPA differs from the proposed project mainly by requiring SDG&E to underground 3.5 miles of circuits in the Jamacha Valley and about 1.35 miles of

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<sup>5</sup> *Id.*, § 15142

<sup>6</sup> *Id.*, §§ 15006 (q) and (r), 15120, 15140.

<sup>7</sup> *Id.*, §§ 15006, 15141; Pub. Res. Code § 21003(c).

<sup>8</sup> Pub. Res. Code § 21003(b).

circuits through the City of Santee. These project modifications eliminate the project's visual impacts in residential neighborhoods. Compared to the proposed project, the EPA would also mitigate certain construction impacts, noise from conductors, and EMF levels. While placing circuits underground may increase some environmental impacts during construction, these impacts are short term and, as the EIR describes, are readily mitigated. The improvements in visual impacts and the reductions in EMF exposure are, on the other hand, permanent and long term. We concur with the final EIR's assessment that long-term project impacts should be weighted more heavily than those that are associated with construction or are otherwise temporary.

## **VI. Request for CPCN**

### **A. Project Need**

SDG&E seeks a CPCN for the Miguel Mission Project pursuant to Pub. Util. Code § 1001, which requires that a utility receive Commission approval prior to initiating construction of new facilities and consistent with General Order 131-D, which addresses procedural requirements for siting transmission lines.

In D.03-02-069, the Commission found a need for the Miguel Mission Project. The Federal Energy Regulatory Commission (FERC) has already determined a need and the ratemaking treatment for the project in Docket EL02-54-000. Overall, the project would relieve congestion over the existing system and increase the system's ability to transfer electricity both from two new power plants in Mexicali, Mexico built by Sempra and Intergen, and from new generation located in Arizona and scheduled into the CAISO control area at Palo Verde. The California ISO estimates congestion management fees paid by customers of SDG&E, SCE and municipal utilities (collectively

ratepayers within the SP15 zone to whom the costs of managing congestion within the zone are spread) between July 2003 and March 2004 equaled \$34.4 million. The ISO states congestion management fees at some level are likely to continue until and unless additional transmission is constructed in the region.

### **B. Community Values**

Pub. Util. Code § 1002 requires the Commission to give consideration to community values, recreational and park areas, historical and aesthetic values, and influence on the environment. These considerations are among those analyzed as part of the CEQA review process.

### **C. Economic Viability**

D.03-02-069 found a need for the Miguel Mission Project on the basis that it would provide economic (rather than system reliability) benefits. Although the Commission found the project to be cost-effective, D.03-02-069 specifically found that SDG&E had not demonstrated the reasonableness of its cost estimates. It also found that the cost-effectiveness of the project would change if project costs increased or additional generating facilities were to become available in the San Diego area. Specifically, the Commission found that the project's "net benefits...could greatly diminish or disappear entirely if actual project costs are substantially higher than those projected in SDG&E's analysis, particularly if energy cost savings are adversely affected...by new generation development in San Diego North."

The cost-benefit analysis applied to the project in D.03-02-069 is no longer accurate due to changes in cost estimates and other circumstances. SDG&E has provided the Commission with information estimating the project cost to have increased from \$26 million for the Miguel-Mission line alone to

\$89.7 million for the larger project described above. At the same, the Commission has gained a better understanding of the actual costs associated with managing congestion that results from insufficient transfer capability along the existing transmission facilities in the San Diego region. In addition, SDG&E filed A.04-03-015 on March 8, 2004, seeking authority to construct new transmission facilities that would apparently augment the Miguel Mission project and are taken into account in the economic analysis of the larger project. These plant additions would affect the economic viability of Miguel Mission project.<sup>9</sup> Finally, the project alternative recommended by the final EIR proposes modifications to the project that would significantly increase project costs.

In light of these changes in circumstance, the scoping memo issued in this proceeding required SDG&E to provide updated cost-benefit analysis of the project. In its response, SDG&E explains that it used the model applied in D.03-02-069 of Henwood Energy Associates to update the economic analysis. It ran the models assuming the addition of new generation at Otay Mesa and Palomar of 480 MW and 1,200 MW, respectively, project cost modifications due to changes in project scope, and changes in area congestion provided by the ISO. With these assumptions, SDG&E estimates minimum annual net benefits of \$6.8 million and \$54.9 million for SDG&E and California ISO customers, respectively, by the year 2010.<sup>10</sup> These benefits reflect energy cost savings only and not savings that would occur with lower ISO (“dec bid”) payments to

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<sup>9</sup> We have some concerns that this project may have been “piecemealed” by SDG&E and intend to consider that in our review of A.04-03-015.

<sup>10</sup> This information is included in SDG&E’s declarations, filed on April 16, 2004, in this proceeding.

generators, re-dispatch costs, and RMR costs associated with ISO efforts to manage congestion on the system that would be eased by the Miguel Mission Project. SDG&E states factoring in these reduced costs would increase project benefits substantially.

The ISO's declaration dated April 5, 2004, responding to the ALJ and Assigned Commissioner's ruling dated March 31, sheds further light on the actual costs associated with managing the real-time constraints at Miguel. For the period from July 2003, when the Intergen and Sempra plants became operational, until March 2004, managing the real-time constraints at Miguel cost \$34.4 million.

The underlying cost estimates presume construction of the project as proposed. Including those higher costs in the calculation reduces the annual net benefits for the project slightly to \$6.7 million for SDG&E customers and \$54.1 million for ISO customers.

We find the project will be economic under the cost and cost savings assumptions presented by SDG&E.

#### **D. Updated Cost Cap**

Pub. Util. Code § 1005.5 requires a cost cap under certain circumstances:

Whenever the commission issues to an electrical . . . corporation a certificate authorizing the new construction of any addition to or extension of the corporation's plant estimated to cost greater than fifty million dollars (\$50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility.

D.03-02-069 adopted a cost cap of \$26 million for the Miguel Mission Project. More recent information confirms that the cost of the Miguel Mission Project will exceed \$50 million. We therefore must adopt a cost cap using more current information.

SDG&E's April 16, 2004 declarations include an updated project cost estimate of \$89.7 million.<sup>11</sup> The primary reason for the much higher estimate is that the original estimate of \$26 million applied only to the circuits. The updated estimate reflects the costs of the entire project, including work on existing line facilities and modifications to the substations. The total project cost increases by \$6.6 million for additional costs associated with the environmentally preferred route we adopt today. Detailed engineering estimates have not been completed for the routes we select, so there is some uncertainty associated with the cost cap we adopt today. However, the cost cap contains sufficient contingency factors to make it reasonable.

We have no reason to believe that SDG&E cannot complete its project within the cost cap we adopt today. If the final construction cost estimate exceeds the cost cap we have adopted, however, SDG&E may exercise its right to seek an increase in the cost cap pursuant to Pub. Util. Code § 1005.5(b). We authorize a total project cost cap of \$96.3 million for the adopted Miguel Mission Project.

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<sup>11</sup> This cost estimate is included in SDG&E's declarations filed April 16, 2004 in this proceeding.

**E. Project Milestones**

D.03-02-069 found that Miguel Mission project would only be economic to customers if at least 1,660 MW of generation were to be developed in the California-Mexico border region. The order adopted a variety of project milestones to be completed by SDG&E that would facilitate the development of additional electrical capacity in the region. The scoping memo in this proceeding directed SDG&E to provide information about the status of activities covered by the adopted milestones.

In its declaration dated April 1, 2004, SDG&E confirms that all milestones have been met with the exception of milestones for which a Commission order is required in this proceeding. In addition, SDG&E states it did not install a second transformer at the Imperial Valley Substation because it determined that a second transformer was needed instead at the Miguel substation. SDG&E states it informed the Commission and parties of this change in plans in I.00-11-001. It installed the second transformer at the Miguel substation in December 2003 and intends to energize it in June 2004.

We find that SDG&E has completed the milestones required by D.03-02-069 with one modification, which was the subject of notice by SDG&E and which is reasonable.

**F. CPCN**

This decision finds that SDG&E's Miguel Mission Project is needed to promote more economic and reliable operation of the electrical system in the San Diego area and statewide. We adopt a modified cost cap and find that SDG&E has fulfilled all required milestones. Accordingly, this decision grants SDG&E a CPCN for the Mission Miguel Project, as described herein and modified according to the environmentally preferred alternative described in the final EIR.

**VII. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed on June 8, 2004, to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_.

**VIII. Assignment of Proceeding**

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

**Findings of Fact**

1. The Commission is the lead agency under CEQA with respect to the environmental review of the project and preparation of the FEIR and has conducted an environmental review of the project in conformance with CEQA. The FEIR consists of the DEIR, revised to incorporate comments received by the Commission from the proponent, agencies, and the public, and the responses to comments. The FEIR has been completed in accordance with CEQA Guidelines, Sections 15120 through 15132.

2. The Miguel Mission Project is needed to improve the management of the statewide transmission system and reduce congestion fees incurred by SDG&E and other California utilities.

3. The environmentally superior transmission line routes recommended by the FEIR and adopted herein provide long-term and permanent environmental benefits in the form of reduced visual impacts, biological resource impacts and noise impacts.

4. The FEIR identifies environmental effects of the environmentally superior route that may be mitigated or avoided. The FEIR describes mitigation measures that would avoid or reduce such effects to less than significant levels.

5. The mitigation measures identified in the FEIR are feasible and reasonable.
6. As lead agency under CEQA, the Commission is required to monitor the implementation of mitigation measures adopted for this project to ensure full compliance with the provisions of the monitoring program.
7. The Mitigation Monitoring, Compliance, and Reporting Plan in the FEIR conforms to the recommendations of the FEIR for measures required to mitigate or avoid environmental effects of the project as modified and adopted that can be reduced or avoided.
8. The FEIR concludes that the project adopted herein will not impose any significant impact on the environment.
9. The benefits of the environmentally superior transmission line route and substation projects include the provision of increased electric supply; these benefits outweigh the potential environmental impacts.
10. The Miguel Mission Project, as modified herein, is needed to promote more economic operation of the electric system.
11. The economic benefits of the Miguel Mission Project outweigh the economic costs, applying the assumptions and the Henwood model described herein.
12. A reasonable price cap for this project is \$96.3 million which reflects the reasonable costs of the project, including the undergrounding required herein.
13. SDG&E has met all project milestones adopted in D.03-02-069 with one minor exception for which it has provided reasonable justification.

### **Conclusions of Law**

1. The procedures employed for this project are in conformance with CEQA. The contents of the FEIR comply with the requirements of CEQA and represent

the Commission's independent judgment. Accordingly, the FEIR should be certified for the project in accordance with CEQA.

2. The Commission has jurisdiction over the proposed project pursuant to Pub. Util. Code § 1001 et seq.

3. Pub. Util. Code § 1005.5 and Pub. Util. Code § 1005.5(b) require the Commission to adopt a cost cap for each project it approves which exceeds \$50 million.

4. The Commission should approve a price cap of \$96.3 million for the Miguel Mission Project.

5. This Commission's cost cap set pursuant to Pub. Util. Code § 1005.5 affects the amount of cost recovery SDG&E may seek from the FERC.

6. The Commission retains authority to approve SDG&E's mitigation plan to ensure that the Miguel Mission Project does not affect the environment adversely.

7. Commission approval of SDG&E's application, as modified herein, is in the public interest.

8. The approval of the application, as provided herein, should be conditioned upon construction according to the environmentally superior routes described herein and recommended by the FEIR, and the completion of the mitigation measures identified in the FEIR. Those mitigation measures should be adopted and made conditions of project approval.

9. SDG&E should be granted a CPCN for the Miguel Mission Project because of its beneficial impact on the operation of the state's electrical system.

**O R D E R****IT IS ORDERED** that:

1. The Final Environmental Impact Report (FEIR) is certified as the Environmental Impact Report (EIR) for the Miguel Mission Project, which is the subject of this application and is certified for use by responsible agencies in considering subsequent approvals for the project, or for portions thereof.
2. A Certificate of Public Convenience and Necessity is granted to San Diego Gas and Electric Company (SDG&E) to construct the Miguel Mission Project consistent with the environmental and regulatory requirements set forth herein.
3. SDG&E shall, as a condition of approval, build the project in accordance with the environmentally superior route, which is the proposed project as modified by the Jamacha Valley 138 kilovolts (kV)/69 kV Underground Alternative and the City of Santee 138 kV/69 kV Underground Alternative as described in the FEIR. In addition, SDG&E shall comply with all mitigation measures specified in the Attachment to this decision.
4. SDG&E's project costs shall be capped at \$96.3 million for the project authorized.
5. The Executive Director shall supervise and oversee construction of the project insofar as it relates to monitoring and enforcement of the mitigation conditions described in the Attachment to this decision. The Executive Director may delegate his duties to one or more Commission staff members or outside staff. The Executive Director is authorized to employ staff independent of the Commission staff to carry out such functions, including, without limitation, the on-site environmental inspection, environmental monitoring, and environmental mitigation supervision of the construction of the project. Such staff may be individually qualified professional environmental monitors or may be employed

by one or more firms or organizations. In monitoring the implementation of the environmental mitigation measures described herein, the Executive Director shall attribute the acts and omissions of SDG&E's employees, contractors, subcontractors, or other agents to SDG&E.

6. SDG&E shall comply with all orders and directives of the Executive Director concerning implementation of the environmental mitigation measures described herein.

7. The Executive Director shall not authorize SDG&E to commence actual construction until SDG&E has entered into a cost reimbursement agreement with the Commission for the recovery of the costs of the mitigation monitoring program described in Section F of the Final Environmental Impact Report, including, but not limited to, special studies, outside staff, or Commission staff costs directly attributable to mitigation monitoring. The Executive Director is authorized to enter into an agreement with SDG&E that provides for such reimbursement on terms and conditions consistent with this decision in a form satisfactory to the Executive Director. The terms and conditions of such agreement shall be deemed conditions of approval of the application to the same extent as if they were set forth in full in this decision.

8. SDG&E's right to construct the project as set forth in this decision shall be subject to all other necessary state and local permitting processes and approvals.

9. SDG&E shall file a written notice with the Commission, served on all parties to this proceeding, of its agreement, executed by an officer of SDG&E duly authorized (as evidenced by a resolution of its board of directors duly authenticated by a secretary or assistant secretary of PG&E) to acknowledge SDG&E's acceptance of the conditions set forth in Ordering Paragraphs 1 through 9, inclusive, of this decision. Failure to file such notice within 75 days of

the effective date of this decision shall result in the lapse of the authority granted by this decision.

10. The Executive Director shall file a Notice of Determination for the project as required by the California Environmental Quality Act and the regulations promulgated pursuant thereto.

11. Application 02-07-022 is closed.

This order is effective today.

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

## Attachment

## Table of Mitigation Measures for the Environmentally Superior Alternative

Mitigation Measure(s)
<b>AIR QUALITY</b>
A-1a: Suppress dust at all work or staging areas and on public roads
A-1b: Use low-emission construction equipment
<b>BIOLOGICAL RESOURCES</b>
B-1a: Provide restoration/compensation for impacted sensitive upland vegetation communities
B-2a: Protect San Diego ambrosia from impacts or provide compensation for impacts
B-2b: Protect San Diego barrel cactus from impacts or relocate potentially impacted species
B-4a: Protect raptor nests
B-4b: Protect coastal cactus wren and its habitat
B-4c: Protect coastal California gnatcatcher and its habitat
B-4d: Protect San Diego fairy shrimp and vernal pools or provide compensation for impacts
B-4e: Protect vernal pools
B-4f: Protect quino checkerspot butterfly and its suitable habitat
B-4g: Protect quino checkerspot butterfly
B-5a: Protect project area from introduction or establishment of invasive plant species
B-7a: Reduce night lighting on sensitive habitats
<b>CULTURAL RESOURCES</b>
C-1a: Avoid all known cultural resources
C-1b: Conduct construction monitoring within 150 feet of known cultural resources
C-1c: Mark cultural resource boundaries
C-1d: Evaluate cultural resources that cannot be avoided
C-2a: Conduct archaeological survey
C-2b: Conduct construction monitoring in the project area
C-3a: Provide cultural resources awareness training to maintenance personnel
C-4a: Install locked gates on access roads
C-5a: Develop and implement buried sites testing program
<b>GEOLOGY, SOILS, AND PALEONTOLOGY</b>
G-1a: Geotechnical evaluations of ground stability
G-2a: Geological evaluations of ground stability and foundation design
G-3a: Soil erosion prevention along maintenance roads
G-4a: Restrict access to maintenance roads
G-5a: Foundations in unstable slopes or erodible soils
G-6a: Geotechnical evaluations of expansive soils
G-7a: Review of construction plans by paleontologist
G-7b: Paleontological training and monitoring

**Mitigation Measure(s)****HYDROLOGY AND WATER QUALITY**

**H-5a:** Aboveground structures shall be protected against flood and erosion damage

**H-7a:** Underground cable shall be protected against scour and erosion

**LAND USE AND RECREATION**

**L-5a:** Avoid peak recreational usage

**L-5b:** Notify users of recreational resources

**NOISE AND VIBRATION**

**N-1a:** Provide advance notice of construction

**N-1b:** Provide liaison for construction nuisance complaints

**N-3a:** Achieve compliance with City of San Diego noise abatement code

**N-3b:** Respond to complaints of corona noise

**PUBLIC HEALTH AND SAFETY**

**HZ-1a:** Observation of soil for contamination

**HZ-2a:** Review of training and response plan

**HZ-3a:** Preparation of plans

**HZ-3b:** Documentation of compliance

**PS-1a:** Limit conductor surface potential

**PS-1b:** Document complaints of broadcast interference

**PS-2a:** Survey and document potential hazards

**PUBLIC SERVICES AND UTILITIES**

**U-1a:** Protect steel pipelines from corrosion

**U-2a:** Maintain adequate emergency vehicle access

**SOCIOECONOMICS**

None

**TRANSPORTATION AND TRAFFIC**

**T-1a:** Prepare traffic control plans

**T-1b:** Restrict time of lane closures

**T-3a:** Repair damaged roadways

**T-4a:** Provide temporary pedestrian and bicycle access

**T-5a:** Ensure emergency response access

**T-7a:** Provide continuous access to properties

**T-7b:** Coordinate with businesses

**VISUAL RESOURCES**

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**Mitigation Measure(s)**

**V-1a:** Reduce visibility of construction activities and equipment

**V-1b:** Avoid construction on weekends and holidays near recreation sites and parks

**V-2a:** Reduce visual contrasts of upgraded structures and new poles in urban and community settings with appropriate paint treatments, compatible with community design

**V-2b:** Reduce visual contrasts of upgraded structures and new poles in natural settings with appropriate neutral earth-tone paint treatments

**V-4a:** Reduce potential for visual impacts due to view obstructions

**V-5a:** Reduce direct impacts to, and visual degradation of, exotic landscapes and natural scenic areas for the life of the project

**V-6a:** Reduce visual impacts at overhead/underground transition poles/stations

**V-6b:** Reduce potential visual impacts of 69 kV/138 kV lines and existing distribution/subtransmission lines near Willow Glen Drive and Dehesa Avenue Transition Station

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**(END OF ATTACHMENT)**