Decision **PROPOSED DECISION OF ALJ KOLAKOWSKI** (Mailed 11/18/2008)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U338E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV: El Casco System Project.	Application 07-02-022 (Filed February 16, 2007)

DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY A PERMIT TO CONSTRUCT ELECTRICAL FACILITIES FOR THE EL CASCO SYSTEM PROJECT

TABLE OF CONTENTS

Title **Page**

DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY
A PERMIT TO CONSTRUCT ELECTRICAL FACILITIES FOR THE
EL CASCO SYSTEM PROJECT 1
1. Summary 2
2. Background 3
3. The Proposed Project 3
4. Procedural Issues 4
5. Requirements for a PTC 5
6. Environmental Review and EMF Compliance 6
6.1. Proponent's Environmental Assessment 6
6.2. Notice of Preparation and Public Scoping Report 7
6.3. Draft Environmental Impact Report 8
6.3.1. Environmental Impacts of the Proposed Project 10
6.3.2. Environmental Impacts of the Northerly Alternative 10
6.3.3. Environmental Impacts of the Partial Underground Alternative 11
6.3.4. Environmental Impacts of the No Project Alternative 11
6.3.5. Environmentally Superior Alternative 12
6.3.6. Mitigation, Monitoring, Reporting and Compliance Plan 12
6.3.7. Electric and Magnetic Fields 13
6.4. Public Notice and Review 14
6.5. Comments on Draft EIR 15
6.6. Final EIR 16
6.7. Recirculated Draft EIR 16
6.8. Comments on Recirculated Draft EIR 17
6.9. Recirculated Final EIR 18
6.9.1. Adoption of Recirculated Final EIR 18
6.10. Need and Overriding Considerations 19
6.10.1. SCE's Supplemental Testimony 19
6.10.2. Citizens of Sun Lakes Country Club Community Supplemental Testimony 21
6.10.3. Statement of Overriding Considerations 23
7. Conclusion 24
8. Testimony and Exhibits 24
9. Comments on Proposed Decision 25
10. Categorization and Need for Hearing 28
11. Assignment of Proceeding 28
Findings of Fact 28
Conclusions of Law 30
ORDER 32

ATTACHMENT A – CPUC CEQA Findings of Fact

DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY A PERMIT TO CONSTRUCT ELECTRICAL FACILITIES FOR THE EL CASCO SYSTEM PROJECT

1. Summary

This decision grants Southern California Edison Company (SCE) a Permit to Construct (PTC) the project known as the El Casco Systems Project (El Casco Project). The El Casco Project consists of: (1) construction of a 220/115/12 kilovolt (kV) substation (El Casco Substation), associated 220 kV and 115 kV interconnections, and new 12 kV line getaways on an approximately 28 acre site located within the Norton Younglove Reserve in Riverside County, California; (2) upgrade of a total of approximately 15.4 miles of 115 kV subtransmission lines and associated structures within existing SCE rights-of-way in the Cities of Banning and Beaumont and unincorporated Riverside County; (5) rebuilding of 115 kV switchracks within SCE's existing Zanja and Banning substations in the Cities of Yucaipa and Banning, respectively; and (6) installation of fiber optic cables within public streets and on or through existing overhead and underground structures and conduits within the Cities of Redlands and Banning, California. The El Casco Project would be entirely located within Riverside and San Bernardino Counties.

SCE seeks Commission approval for a PTC for the El Casco Project pursuant to General Order 131-D. As the Lead Agency for environmental review, we find the Final Environmental Impact Report (EIR) and Recirculated Final EIR prepared for this project meets the requirements of the California Environmental Quality Act, and that there are overriding considerations in support of the El Casco Project. This proceeding is closed.

2. Background

SCE provides retail electric service to customers in fifteen counties in Southern California. The El Casco Project as proposed by SCE (Proposed Project) will create a new substation with associated subtransmission lines and control equipment to serve forecasted customer demand in the Cities of Calimesa and Beaumont, as well as the surrounding unincorporated areas of Riverside County (the Electrical Needs Area). The impacted substation facilities include both the local Maraschino 115/12 kV substation and the regional Vista 220/115 kV substation.[1] The creation of the new El Casco 115 kV system would include the transfer of several substations, including Maraschino, Zanja and Mentone substations, from the existing Vista 115 kV system. This would relieve load from the Vista 115 kV system, which is expected to approach its available capacity limits by 2010.[2]

3. The Proposed Project

The Proposed Project comprises a substation, subtransmission lines and optical fiber telecommunications line equipment; specifically:

1) construction of a 220/115/12 kV substation (El Casco Substation), associated 220 kV and 115 kV interconnections, and new 12 kV line getaways on an approximately 28 acre site located within the Norton Younglove Reserve in Riverside County;
2) replacement of approximately 13 miles of existing single-circuit 115 kV subtransmission lines with new, higher capacity double-circuit 115 kV subtransmission lines and replacement of support structures within existing SCE rights-of-way in the

[1] See Exhibit 1, page 1.

[2] *Id.*, page 2.

Cities of Banning and Beaumont and unincorporated Riverside County;

3) replacement of approximately 1.9 miles of existing single-circuit 115 kV subtransmission lines with new, higher capacity single-circuit 115 kV subtransmission lines and replacement of support structures within existing SCE rights-of-way in the City of Beaumont and unincorporated Riverside County;
4) replacement of approximately 0.5 miles of existing single-circuit 115 kV subtransmission lines with new, higher capacity single-circuit 115 kV subtransmission lines on existing support structures within City of Beaumont and unincorporated Riverside County;
5) rebuilding of 115 kV switchracks within SCE's existing Zanja and Banning substations in the Cities of Yucaipa and Banning, respectively; and
6) installation of fiber optic cables within public streets and on or through existing overhead and underground structures and conduits between the Cities of Redlands and Banning.

The estimated cost of the Proposed Project is approximately $92 million. Construction is expected to begin shortly upon receipt of all necessary approvals.

4. Procedural Issues

Notice of the application appeared in the Commission's February 23, 2007 Daily Calendar. Edward H. Leonhardt, P.E. filed a formal protest on March 16, 2007. SCE filed its reply to comments on March 28, 2007. SCE filed an Amendment to the present application on July 17, 2007.

Administrative Law Judge (ALJ) Kolakowski convened a prehearing conference in Banning, California on August 1, 2007.

On March 20, 2008, the Assigned Commissioner and ALJ issued a ruling and scoping memo (Scoping Memo) which ordered SCE to provide additional testimony to demonstrate the need for the El Casco Project and the infeasibility of alternatives, as discussed below in Section 6.10. SCE served such additional

testimony on April 11, 2008, identified herein as Exhibit 1. The protestants were granted an opportunity to serve responsive testimony. A group of protestants representing themselves as Citizens of Sun Lake Country Club served responsive testimony on April 29, 2008, identified herein as Exhibit 2.[3] No party filed a request for evidentiary hearings, and pursuant to the Scoping Memo, no hearing was held.

5. Requirements for a PTC

General Order (GO) 131-D, Section I, defines an electric "power line" as one designed to operate between 50 and 200kV. Section III.B of GO 131-D requires utilities to first obtain Commission authorization, in the form of a PTC, before beginning construction of a power line.

Under GO 131-D, Section IX.B.1.f, PTC applications for power lines need not include a detailed analysis of purpose and necessity, a detailed estimate of cost and economic analysis, a detailed schedule, or a detailed description of construction methods (beyond that required for compliance with the California Environmental Quality Act (CEQA). PTC applications must, however:

1) include a description of the proposed facilities and related costs, a map, reasons the route was selected, positions of the government agencies having undertaken review of the project, and a Proponent's Environmental Assessment (PEA). (Section IX.B.1);
2) show compliance with the provisions of CEQA (Public Resources Code Section 21000, *et seq.*) related to the proposed

[3] One of these residents, Marvin Friedman, had previously been granted party status, whilst the other signatories were on the Information Only service list. Therefore, we shall treat the party as Citizens of Sun Lake Country Club with Mr. Friedman as the designated representative for purposes of service.

project, including the requirement to meet various public notice provisions (Section IX.B.2-5); and

3) describe the measures to be taken or proposed by the utility to reduce the potential for exposure to electric and magnetic fields (EMF) generated by the proposed project (Section X).

These requirements are discussed separately below.

6. Environmental Review and EMF Compliance

CEQA requires that the Commission consider the environmental consequences before acting upon or approving the El Casco Project.[4] Under CEQA, the Commission must act as either the Lead Agency or a Responsible Agency for project approval. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.[5] Here, the Commission is the lead agency. The actions and steps taken for environmental review of the El Casco Project, in accordance with GO 131-D and CEQA, are discussed below.

6.1. Proponent's Environmental Assessment

Pursuant to GO 131-D, Section IX.B.1.e, the application must include a PEA. SCE filed its PEA in this proceeding on February 16, 2007; the application was deemed complete on March 14, 2007. The PEA evaluates the environmental impacts that may result from the construction or operation of the Project.

The PEA found that no significant impacts would occur as a result of operations. However, the PEA noted that some impacts would occur to air quality during construction, including impacts exceeding the Southern California

[4] California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines), § 15050(b).

[5] CEQA Guidelines, § 15050(b).

Air Quality Management District (SCAQMD) significance threshold for PM10 which could not be mitigated. SCE argued that these impacts would be temporary.[6] The PEA proposed measures to be taken to reduce the impacts on air quality.

6.2. Notice of Preparation and Public Scoping Report

The Commission's Energy Division Staff (Staff) reviewed the PEA and issued a Notice of Preparation (NOP) on July 16, 2007 pursuant to CEQA Guidelines § 15082 to address the environmental issues related to the El Casco Project and to request comments from interested parties. The NOP noted that Staff had determined that an EIR would be required for the El Casco Project. The NOP was filed with the State Clearinghouse on July 16, 2007, and was issued an identification number (SCH# 2007071076), which initiated a 30-day public scoping period, which ended on August 14, 2007.[7]

Over 800 copies of the NOP were distributed to federal, regional, and local agencies; elected officials; and property owners within 300 feet of the Proposed Project alignment. Citizens and community organizations who expressed interest in the El Casco Project were also added to the mailing list. In addition, copies of the NOP were delivered to five public repository sites.[8]

Two public scoping meetings were held on August 1, 2007 – one in Banning, California and the other in Beaumont, California. These meetings were noticed in the NOP, in newspaper advertisements in five local newspapers, and

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[6] PEA, page 5-1, Section 5.1.2.

[7] Reference Exhibit A, page 3, Section 2.1.

[8] *Id.*, pages 3-4.

by direct contact with ten potentially affected local and regional agencies. A public hotline, e-mail address and website were established.[9]

Based upon input from the public meetings and other contacts with the public, Staff issued a Public Scoping Report in September 2007, which is identified herein as Reference Exhibit A.

6.3. Draft Environmental Impact Report

Staff prepared a Draft EIR, which Staff issued on December 12, 2007 and is identified herein as Reference Exhibit B. The Draft EIR analyzed the Proposed Project and a number of alternatives. Under CEQA, the key considerations in analyzing alternatives are: (1) whether the alternatives feasibly meet most of the project objectives; and (2) whether the alternatives have the potential to avoid or to substantially lessen any significant environmental impacts of the Proposed Project. Based upon these criteria, the Draft EIR identified and studied the environmental impacts of four possible outcomes: (1) the original Proposed Project; (2) an alternative identified in the PEA as Alternative Option 3 (Northerly Route); (3) a Partial Underground Alternative (PUA); and (4) the No Project Alternative (NPA). A number of other alternatives were eliminated from environmental consideration for reasons set forth in the Draft EIR and consistent with the CEQA guidelines.

The 21.8 mile Northerly Route would consist of: (1) rebuilding the entire El Casco-Maraschino 115 kV subtransmission line; (2) rebuilding a portion of the Banning-Maraschino 115 kV subtransmission line; and (3) creating the new El Casco-Banning and El Casco-Zanja 115 kV subtransmission lines from a

[9] *Id.*, pages 4-5.

combination of new construction and rebuilding a portion of the existing Devers-Banning-Windpark-Zanja 115 kV subtransmission line.

Under this route, 9.5 miles would be a new 115 kV subtransmission line located in an existing SCE transmission line corridor right-of-way (ROW) that currently consists of the Devers-San Bernardino No. 1 and No. 2 220 kV transmission lines, and the Devers-Vista double-circuit 220 kV transmission lines. The upgrades include 5.8 miles between the El Casco and Maraschino Substations in the same ROW as the Proposed Project. This alternative would avoid the Proposed Project's construction activities between the Maraschino and Banning Substations. Currently, SCE's existing single-circuit 115 kV subtransmission line in this area is only energized during emergency situations; under the Northerly Alternative, it would be energized at all times. The remaining 6.5 miles would occur between the Banning Substation and the "Zanja Break-off" on existing subtransmission line structures.

The PUA was developed in response to the residents of the Sun Lake Country Club community. It differs from the Proposed Project in one respect: it replaces the existing H-frame single-circuit 115 kV subtransmission line with an underground double-circuit 115 kV subtransmission line through approximately Mile 9.0 and Mile 10.0, the area in which the SCE ROW passes through the Sun Lake community. This alternative requires approximately 10 fewer steel poles but requires excavation of the underground line, as described in more detail below.

For the NPA, the Draft EIR considered that in order to avoid overload conditions in the Maraschino Substation service area, that SCE would need to add a third transformer and two 12 kV distribution line (each approximately 9 miles in length).

Under CEQA, the key questions are whether environmental impacts are significant and whether they can be mitigated to a level less than significant.

6.3.1. Environmental Analysis of the Proposed Project

The Draft EIR found that approval of the Proposed Project would result in significant direct impacts that could not be mitigated in the areas of air quality and noise. The Draft EIR found that approval of the Proposed Project would result in significant cumulative impacts that could not be mitigated in the areas of: air quality, biological resources; hazards and hazardous materials; hydrology and water quality; noise; and visual resources.

The Draft EIR found that approval of the Proposed Project would have no environmental impacts, or impacts that could be mitigated to a less than significant level, in the following areas: land use; cultural resources; geology, soils and seismicity; public services and utilities; transportation and traffic; mineral resources; population; and housing.

6.3.2. Environmental Analysis of the Northerly Alternative

The Draft EIR found that approval of the Northerly Alternative would result in significant direct impacts that could not be mitigated in the areas of: air quality; cultural resources; and noise. The Draft EIR found that approval of the Northerly Alternative would result in significant cumulative impacts that could not be mitigated in the areas of: air quality; cultural resources; hazards and hazardous materials; hydrology and water quality; noise and visual resources.

The Draft EIR found that approval of the Northerly Alternative would have no environmental impacts, or impacts that could be mitigated to a less than significant level, in the following areas: land use; biological resources; geology, soils and seismicity; public services and utilities; transportation and traffic; mineral resources; population; and housing.

6.3.3. Environmental Analysis of the Partial Underground Alternative

The Draft EIR found that approval of the PUA would result in significant direct impacts that could not be mitigated in the areas of: air quality; land use; and noise. The Draft EIR found that approval of the PUA would result in significant cumulative impacts that could not be mitigated in the areas of: air quality; land use; biological resources; hazards and hazardous materials; hydrology and water quality; noise; and visual resources.

The Draft EIR found that approval of the PUA would have no environmental impacts, or impacts that could be mitigated to a less than significant level, in the following areas: cultural resources; geology, soils and seismicity; public services and utilities; transportation and traffic; mineral resources; population; and housing.

6.3.4. Environmental Analysis of the No Project Alternative

The Draft EIR found that approval of the NPA would result in significant direct impacts that could not be mitigated in the areas of air quality and noise. The Draft EIR found that approval of the NPA would result in significant cumulative impacts that could not be mitigated in the areas of: air quality biological resources; hazards and hazardous materials; hydrology and water quality; noise; and visual resources.

The Draft EIR found that approval of the NPA would have no environmental impacts, or impacts that could be mitigated to a less than significant level, in the following areas: land use; cultural resources; geology, soils and seismicity; public services and utilities; transportation and traffic; visual resources; mineral resources; population; and housing.

6.3.5. Environmentally Superior Alternative

The Draft EIR was confusing regarding the environmentally superior alternative,[10] as the Executive Summary states that the Proposed Project was the environmentally superior alternative, while the analysis itself found that the PUA was the environmentally superior alternative.[11] Upon review of the totality of the document, it is clear that the first reference was an error and that the Draft EIR found the PUA to be the environmentally superior alternative.

The Northerly Alternative had significant long-term historic, visual and cumulative impacts that were not present with the other alternatives, and so it was not superior. Of the remaining alternatives studied, the PUA was determined to have the least long-term impacts, to be superior in land use, noise and visual impacts, would improve the existing visual impacts, and would improve the long-term beneficial impacts of the recreational facility through which the line would be undergrounded. The impacts of the additional construction required to underground the line would be short term and largely mitigable.

The NPA was deemed not superior to the PUA because the NPA would still require construction of distribution lines, which would have similar environmental impacts.

6.3.6. Mitigation, Monitoring, Reporting and Compliance Plan

As required by CEQA, the Draft EIR included a Mitigation, Monitoring, Reporting and Compliance Plan (MMRCP). The MMRCP describes the mitigation measures and specifically details how each mitigation measure would

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[10] Reference Exhibit B, page ES-3.

be implemented, and includes information on the timing of implementation and monitoring requirements. The Commission also uses the MMRCP as a guide and record of monitoring the utility's compliance with its provisions. The MMRCP adopted in this proceeding is that associated with the Recirculated Final EIR, with one exception (HAZ-10).

6.3.7. Electric and Magnetic Fields

The Commission also has examined EMF impacts in several previous proceedings.[12] We found the scientific evidence presented in those proceedings was uncertain as to the possible health effects of EMFs, and we did not find it appropriate to adopt any related numerical standards. Because there is no agreement among scientists that exposure to EMFs creates any potential health risk, and because CEQA does not define or adopt any standards to address the potential health risk impacts of possible exposure to EMFs, the Commission does not consider magnetic fields in the context of CEQA and determination of environmental impacts.

However, recognizing that public concern remains, we do require (pursuant to GO 131-D, Section X) that all requests for a PTC must include a description of the measures taken or proposed by the utility to reduce the potential for exposure to EMF generated by the proposed project. We developed an interim policy addressing the matter that requires utilities, among other things, to identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce the potential impacts of EMF. The benchmark

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[11] Reference Exhibit B, page ES-46.

[12] *See* Decision (D.) 06-01-042, and D.93-11-013.

established for low-cost measures is 4% of the total budgeted project cost that result in an EMF reduction of at least a 15% (as measured at the edge of the utility right-of-way).

The Draft EIR addressed the EMF mitigation measures related to the Project. As "no and low-cost" mitigation measures, SCE would do the following:

1) Use taller poles for the proposed 115 kV subtransmission lines;
2) Use a "double-circuit" pole-head configuration for the double-circuit portions of the proposed 115 kV subtransmission lines;
3) Use a "triangular" type pole-head configuration for the single-circuit portions of the proposed 115 kV subtransmission lines;
4) Phase the proposed 115 kV subtransmission lines with respect to the adjacent existing subtransmission lines;
5) Phase the looped 220 kV transmission lines into the El Casco Substation; and
6) Place major substation electric equipment (such as transformers, capacitor banks, switchracks, etc.) away from the substation property lines.[13]

6.4. Public Notice and Review

On December 12, 2007, Staff mailed approximately 1,400 copies of a Notice of Availability for the Draft EIR to commence the 45-day public review process under CEQA. The NOA was distributed to federal, regional, and local agencies; elected officials; and property owners within 300 feet of the Proposed Project alignment. Citizens and community organizations who expressed interest in the El Casco Project were also added to the mailing list. In addition, copies of the full Draft EIR and appendices were distributed to approximately 70 interested

[13] Exhibit 3, Appendix 5, pages 4-5.

parties and agencies, the State Clearinghouse, and the five public repository sites. Fifty two copies of the electronic version of the Draft EIR were distributed on CD-ROM to interested parties and agencies. Additional copies of the electronic version of the Draft EIR on CD-ROM plus a bound version of the Executive Summary were distributed at the two public informational workshops and two public participation meetings.[14]

Notices of the issuance of the Draft EIR as well as of the public informational workshops and public participation meetings were published in five local newspapers.[15]

Two informational workshops and two public participation meetings were held at the City of Banning Council Chambers on January 9, 2008. A total of 33 members of the public were documented as in attendance.[16]

6.5. Comments on Draft EIR

A number of comments were received on the Draft EIR from public agencies, community groups and individuals, as well as from SCE. The public agencies who commented were: the Morongo Band of Mission Indians; the U.S. Dept. of Transportation – Federal Aviation Administration; County of San Bernardino Land Use Services Dept.; Riverside County Flood Control and Water Conservation District; the San Bernardino National Forest; the California Department of Transportation – Division of Aeronautics; and the City of Calimesa. These agencies raised specific concerns which were addressed in the Final EIR.

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[14] Reference Exhibit C, page 2-2 and 2-3.

[15] Reference Exhibit C, page 2-2.

The community organization who commented was the Sun Lakes Country Club, which stated it was neutral regarding the alternatives. In addition, 60 individuals provided written comments, and seven individuals were identified in the transcript from the public meetings, all of whom preferred the PUA.

6.6. Final EIR

A Final EIR was prepared pursuant to CEQA guidelines, and released by Staff on April 18, 2008. The Final EIR included all aspects of the Draft EIR; outlined the steps required to develop the Final EIR; incorporated comments from the applicant, public agencies and the public; addressed responses to those comments by the staff acting as Lead Agency; and included a final version of the MMRCP.

In response to these public comments on the Draft EIR, a number of revisions were made in the Final EIR, including removing the reference in the Executive Summary to the selection of the Proposed Project as the environmentally superior alternative. The Final EIR unambiguously found the PUA to be the environmentally superior alternative.

6.7. Recirculated Draft EIR

SCE provided comments and substantial additional testimony related to the ambient noise level and noise associated with operations of 115 kV lines, which led Staff to reevaluate the analysis and conclusions of the Final EIR. Therefore, Staff recirculated the EIR on July 9, 2008. The Recirculated Draft EIR revised the noise analysis to find that none of the alternatives had a significant

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[16] Reference Exhibit C, page 2-3.

environmental impact, and changed the determination of the environmentally superior alternative to the Proposed Project.

A Notice of Availability for the Recirculated Draft EIR was issued on July 9, 2008, commencing a new 45-day public review process under CEQA. The NOA was mailed to the same approximately 1,400 parties as the Draft EIR. The NOA was distributed to federal, regional, and local agencies; elected officials; and property owners within 300 feet of the Proposed Project alignment. Citizens and community organizations who expressed interest in the El Casco Project were also added to the mailing list. In addition, copies of the Recirculated Draft EIR were distributed to approximately 60 interested parties and agencies, the State Clearinghouse, and the five public repository sites. Sixty-three copies of the electronic version of the Recirculated Draft EIR were distributed on CD-ROM to interested parties and agencies.[17]

Notices of the issuance of the Recirculated Draft EIR were published in the same five local newspapers.[18]

6.8. Comments on Recirculated Draft EIR

A number of comments were received on the Recirculated Draft EIR from public agencies, community groups and individuals, as well as from SCE. The City of Banning's Office of the Mayor commented in support of the PUA and arguing that the long-term benefits to the community outweigh the costs of delay and increased environmental impacts during undergrounding. The Sun Lakes Country Club requested that the Commission consider the health, safety and

[17] Reference Exhibit E, pages 2-3and 2-4.

[18] Reference Exhibit E, page 2-4.

welfare of the residents. In addition, three individuals provided written comments, all of whom preferred the PUA. All of the proponents of the PUA questioned the decision to change the environmentally superior alternative back to the Proposed Project.[19]

6.9. Recirculated Final EIR

The Recirculated Final EIR was prepared pursuant to CEQA guidelines, and released by Staff on October 17, 2008. The Recirculated Final EIR includes all aspects of the previous environmental documents; incorporates comments from the applicant, public agencies and the public; addresses responses to those comments by the staff acting as Lead Agency; and includes a final version of the MMRCP. The Recirculated Final EIR makes some revisions to the previous drafts, which are comprehensively noted in the document.[20]

SCE noted in its comments on the proposed decision that Mitigation Measure HAZ-10 is infeasible, because it requires SCE to provide affected property owners with 30 days notice prior to reenergization of the line. Since the line is currently energized, and will continue to remain energized, this requirement is both unnecessary and infeasible, and shall not be adopted.

6.9.1. Adoption of Recirculated Final EIR

Before granting the subject application, we must consider the Recirculated Final EIR.[21] We have done so and find that:

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[19] Leonhardt questions whether the process for recirculation fully complied with CEQA regulations, including the identification of the author of the Recirculated Draft EIR. All of these environmental reports were authored by Staff, and comply with CEQA requirements.

[20] Reference Exhibit E, Section 4.

[21] CEQA Guidelines § 15090.

- The Recirculated Final EIR has been completed in compliance with CEQA.
- The Recirculated Final EIR was presented to the Commission, and the Commission has received, reviewed, and considered the information contained in the Recirculated Final EIR.
- The Recirculated Final EIR reflects the Commission's independent judgment and analysis.

We certify and adopt the Recirculated Final EIR it in its entirety, and incorporate it by reference in this decision approving the project. The CEQA findings of the Recirculated Final EIR are appended as Attachment A, and are adopted herein as findings of fact.

6.10. Need and Overriding Considerations

The Draft Environmental Impact Report determined that all alternatives, including the NPA, had significant environmental impacts that could not be mitigated. As a result, SCE was directed to provide testimony regarding the economic, legal, social and technological benefits of the alternatives to demonstrate their desirability and feasibility pursuant to CEQA Guidelines §§ 15043 and 15093. Protestants were offered the opportunity to file rebuttal testimony.

6.10.1. SCE's Supplemental Testimony

SCE served its Supplemental Testimony on April 11, 2008, and it is identified herein as Exhibit 1. SCE testified that there is an urgent need for a project to serve the Electrical Needs Area for two basic reasons. First, anticipated load growth will likely result in rolling blackouts. SCE projects a 5.5% compound growth rate in this area. The local distribution facilities at the existing

Maraschino Substation will soon exceed their loading limits, which could lead to rolling blackouts.[22] Furthermore, the existing Vista 115 kV System serves a region spanning from the Lake Arrowhead area of the San Bernardino Mountains, through the City of San Bernardino, to the Calimesa/Beaumont area. The area within the Vista 115 kV System is growing at a rate of nearly 3% per year, which could cause the load demand to reach available capacity by 2010.[23]

Furthermore, the current system configuration leads to unfavorable service reliability. At a regional level, three of the main distribution substations in the Electrical Needs Area (Banning, Maraschino and Zanja Substations) operate in a "preferred/emergency" arrangement, whereby each has a single 115 kV subtransmission source ("preferred line"). If an outage occurs on this preferred line, automated switches inside the substation transfer load to the standby "emergency" line, which is kept energized but does not carry any of the substation's load.[24] These switchovers lead to temporary outages of approximately 6-10 seconds in duration. Over the past five years, such interruptions have occurred 27 times at the Banning Substation, 18 times at the Maraschino Substation and 6 times at the Zanja Substation.[25]

SCE further testifies that the Proposed Project improves load carrying capacity and reliability.[26] SCE also contends that the Proposed Project is the best and least costly alternative, as it utilizes an optimized path through existing

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[22] Exhibit 1, page 1.

[23] Exhibit 1, page 2.

[24] *Id*.

[25] Exhibit 1, page 3.

[26] Exhibit 1, pages 3-4.

ROWs.[27] SCE contends that underground construction is up to ten times more expensive to build, and is not as easy to maintain.[28] Furthermore, undergrounding through the Sun Lakes Country Club community would delay the project by ten months for extended construction with greater construction environmental effects for the benefit of one small community to the detriment of other communities in the Electrical Needs Area.[29]

SCE testifies that the Northerly Route Alternative would require acquisition of additional ROW that would delay the project, and would lead to overbuilding over existing Banning electric distribution facilities. Furthermore, under the Northerly Alternative SCE would still operate the existing southern 115 kV subtransmission line, resulting in increased areas of impact.[30]

6.10.2. Citizens of Sun Lakes Country Club Community Supplemental Testimony

A group of individuals identifying themselves as "Citizens of Sun Lakes Country Club" (SLCC) served its rebuttal testimony on April 29, 2008, which is identified herein as Exhibit 2.

SLCC noted the unanimous support of the Banning City Council for the PUA.[31] They contended that the visual obstructions will result in decreased property values as well as have a negative economic impact on the golf course

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[27] Exhibit 1, pages 6-8.

[28] Exhibit 1, pages 4-6.

[29] Exhibit 1, page 8.

[30] *Id*.

[31] Exhibit 2, page 3.

through which they are seeking undergrounding.[32] SLCC argues that the existing 115 kV subtransmission line is rarely used, and that the adjacent housing and golf course were constructed based upon an understanding of the existing usage of the ROW.[33]

SLCC also contended that an overhead subtransmission line is a safety hazard, as the area is both prone to fires as well as having extremely high winds. They contended that power lines can cause fires and that energized lines interfere with firefighter operations.[34]

SLCC also discussed the EMF impacts, which they contend are a health hazard.[35] They contended that undergrounding would qualify as a "low-cost/no-cost" mitigation, arguing that the project costs should consider all transmission projects which impact the area.[36]

SLCC questioned elements of SCE's testimony. SLCC challenges SCE's growth projections, arguing that the housing market has slowed down for new construction.[37] Finally, SLCC challenged SCE's characterization of their community as small, noting the community comprises over 5,000 residents, which is almost a quarter of the population of Banning. They noted that no residents have submitted comments in favor of an overhead line.

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[32] Exhibit 2, page 3.

[33] Exhibit 2, page 5.

[34] Exhibit 2, pages 3-5.

[35] Exhibit 2, pages 2-3 and 5-6.

[36] Exhibit 2, page 6. Although not specified, SLCC appears to be referencing the Devers-Palo Verde No. 2 line considered in A.05-04-015, for which a Certificate of Public Convenience and Necessity was approved in D.07-01-040.

[37] Exhibit 2, page 7.

6.10.3. Statement of Overriding Considerations

In considering which alternative to adopt, the Commission notes that the Proposed Project is the environmentally superior alternative in the Recirculated Final EIR, and that the No Project Alternative also has significant environmental impacts that cannot be mitigated. Any choice of alternative before the Commission, including making no choice, will lead to some significant environmental impact that cannot be mitigated.

The residents of Sun Lake Country Club have raised important issues, but they do not rise above the clear and urgent need for the project. The present network configuration is prone to interruptions, and capacity is nearly exceeded today. Even with the economic slowdown, there is no substantive evidence that there will be no growth or a decline in demand. Therefore, some project is needed. Choosing the Northerly Alternative would result in overbuilding and delay, and would have greater environmental impacts.

The PUA has serious problems which cannot be overlooked by the Commission. First, undergrounding is very expensive, and the costs of undergrounding far exceed what is reasonable for a "low-cost/no-cost" mitigation measure for the El Casco Project. Second, this alternative would delay construction, and would cause far greater environmental impacts during construction. Third, while undergrounding would reduce fire risks, the Draft EIR addressed mitigation measures for the Proposed Project which adequately mitigate those risks.[38]

Finally, there is a serious question of reasonableness of undergrounding to benefit one community at the expense of all of SCE's ratepayers, especially since

there are no technical or other requirements that would make this an appropriate project for undergrounding. SLCC's arguments would apply to any community adjacent to a subtransmission line, and it would be prohibitively expensive to require underground construction for every subsequent subtransmission line.

In light of all of these considerations and to the extent necessary, we find that there are overriding considerations that support our adoption of the environmentally superior alternative, which is the Proposed Project. Each benefit set forth above and throughout this decision constitutes an overriding consideration approving the project, independent of the other benefits, despite each and every significant unavoidable impact.

7. Conclusion

We have considered the Recirculated Final EIR, and have adopted it herein at Section 6.9.1. We have considered the supplemental testimony from the parties, and have found that there are overriding considerations that support our adoption of the environmentally superior alternative, which is the Proposed Project. Therefore, we conclude that granting this PTC is in the public interest and the application should be approved.

8. Testimony and Exhibits

SCE and Protestants offered exhibits into the record, which are received herein as Exhibits 1 and 2, respectively.

The Public Scoping Report, Draft EIR, Final EIR, Recirculated Draft EIR and the Recirculated Final EIR will be received into the record of this proceeding

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[38] Reference Exhibit B, Section D.7.

as Reference Exhibits A-E, respectively. [These documents are available for inspection on the Commission's website.][39]

The testimony is identified as follows and is received into evidence:

Exhibit 1 – SCE's Supplemental Testimony dated April 11, 2008.

Exhibit 2 – Citizens of Sun Lakes Country Club Supplemental Testimony dated April 29, 2008.

Reference Exhibit A – Public Scoping Report issued September , 2007.

Reference Exhibit B – Draft Environmental Impact Report issued December 12, 2007.

Reference Exhibit C – Final Environmental Impact Report issued April 11, 2008.

Reference Exhibit D – Recirculated Draft Environmental Impact Report issued July 9, 2008.

Reference Exhibit E – Recirculated Final Environmental Impact Report issued October 17, 2008.

9. 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 SCE on December 5, 2008 and by Protestant Leonhardt

[39] Currently at http://www.cpuc.ca.gov/Environment/info/aspen/elcasco/elcasco.htm

on December 6, 2008,[40] and reply comments were filed by SCE on December 15, 2008.

SCE's comments addressed two main concerns. First, SCE requested minor non-substantive modifications to the discussion of the environmental documents for clarity and completeness, which have been incorporated herein. Second, SCE raised concerns about proposed mitigation measure HAZ-10, requiring notice to property owners when the line is energized. Since the line is now, and is expected to remain, energized with the adoption of the Proposed Project, there is no need for HAZ-10, it is infeasible, and it is eliminated herein.

Leonhardt addressed three main concerns. None rise to the level of requiring substantive revision of the decision.

First, he noted that the Commission's adoption of a "low-cost/no-cost" mitigation policy was not absolute, and that the Commission in D.04-08-046 stated that SCE's Jefferson-Martin Project had a 4% EMF mitigation budget as a target and not a cap.[41]

While 4% is not a hard cap, even in the cited decision 4% is discussed as a target. While each project has its mitigation plan established specifically for that project, those plans must operate within the constraints of existing policies, absent a showing of some compelling reason to deviate from those policies. Nothing in the record regarding the El Casco Project demonstrates a need to deviate from our stated policy regarding EMF mitigation.

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[40] Protestant Friedman electronically served, but did not file, a statement expressing his disagreement with the choice of the Proposed Project and reiterated his support for the PUA.

[41] Leonhardt Comments, page 3.

Second, Leonhardt objected to the statement that no party had formally requested evidentiary hearings. He notes that he included in his comments in response to the Recirculated Draft EIR a request for hearings. Such a request was not formally filed in the docket of this proceeding in accordance with Commission rules or in accordance with prior ALJ rulings, and so no evidentiary hearing was requested.

If we were to consider Leonhardt's Comments as a formal request for evidentiary hearings, we would deny the request. Nothing in Leonhardt's Comments in either the formal proceeding or the environmental process raise evidentiary disputes relevant to the two questions relevant to the approval of the PTC: the adequacy of the environmental review and the overriding considerations for approving a project with environmental impacts that cannot be mitigated.

Finally, Leonhardt contends that the proposed decision failed to adequately address the cumulative visual impacts of the construction of the Proposed Project as well as the Devers-Valley segment of Devers-Palo Verde No. 2 Transmission Line Project approved in D.07-01-040. This is incorrect. The cumulative environmental impacts were considered in the CEQA Findings of Fact on page A-75 of Attachment A. Due to the large number of issues raised in the environmental review, not all are individually addressed in the discussion above. However, all have been carefully considered. Furthermore, this decision recognizes that there are environmental impacts that cannot be mitigated, and the statement of overriding considerations in Section 6.10 addresses those impacts.

10. Categorization and Need for Hearing

In Resolution ALJ 176-3188, dated March 2, 2007, we preliminarily determined this proceeding should be categorized as ratesetting, and that no hearing was necessary. This was affirmed in the Scoping Memo, and based upon the record in this proceeding, these determinations are again affirmed.

11. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Victoria S. Kolakowski is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. SCE filed the present application on February 16, 2007, and an amended application on July 17, 2007.

2. SCE's application for a PTC conforms to GO 131-D.

3. The Proposed Project will provide capacity and reliability support, as well as less costly maintenance, for the SCE transmission system.

4. A protest to the subject application was filed by Edward H. Leonhardt, P.E. on March 16, 2007.

5. A prehearing conference was held in Banning, California on August 1, 2007.

6. A scoping memorandum was issued by the Assigned Commissioner and Assigned Administrative Law Judge on March 20, 2008.

7. SCE served Supplemental Testimony on April 11, 2008, which is identified herein as Exhibit 1.

8. A group of individuals identifying themselves as "Citizens of Sun Lake Country Club" (SLCC), which includes party Marvin Friedman, served its rebuttal testimony on April 29, 2008, which is identified herein as Exhibit 2.

9. This proceeding does not require an evidentiary hearing, and no party has formally requested a hearing.

10. The Recirculated Final EIR (which incorporates the prior environmental documents) related to the Proposed Project conforms to the requirements of CEQA.

11. The Recirculated Final EIR considered four alternatives, including the Proposed Project, a Northerly Alternative, a Partial Underground Alternative, and a No Project Alternative.

12. The environmentally superior alternative in the Recirculated Final EIR is the Proposed Project.

13. The Recirculated Final EIR was presented to the Commission, and the Commission has received, reviewed, and considered the information contained in the Final EIR.

14. The CEQA Findings of Fact in Attachment A represent the independent findings of the Commission.

15. The MMRCP, included as part of the Recirculated Final EIR, specifically describes the mitigation measures to be taken.

16. Mitigation Measure HAZ-10 is unnecessary and infeasible and should not be imposed as part of the MMRCP.

17. The Recirculated Final EIR reflects the Commission's independent judgment.

18. The Commission considered the Recirculated Final EIR in deciding to approve the Project.

19. The Project includes no-cost and low-cost measures (within the meaning of D.93-11-013, and D.06-01-042) to reduce possible exposure to EMF.

20. The Recirculated Final EIR determined that all alternatives, including the No Project Alternative, had significant environmental impacts that could not be mitigated.

21. There is an urgent need for the El Casco Project to meet the projected capacity requirements of the Electric Needs Area as well as to ensure local and regional system reliability.

22. Undergrounding subtransmission lines is significantly more expensive than overhead lines.

23. The cost of undergrounding for the Partial Underground Alternative exceeds the threshold to qualify as a "low-cost/no-cost" mitigation measure.

24. Selection of the Partial Underground Alternative or the Northerly Alternative would result in unnecessary delay in the construction of the El Casco Project.

25. Selection of the Northerly Alternative would result in inefficiencies due to multiple subtransmission lines.

26. The Commission considered the testimony of the parties and the economic, legal, social and technological benefits of the alternatives, and determined that the Proposed Project should be approved and that to the extent necessary, overriding considerations exist to approve the Proposed Project.

27. Reference Exhibits considered include (by exhibit identification): A - the Public Scoping Report; B - the Draft EIR; C - the Final EIR; D - the Recirculated Draft EIR; and E – the Recirculated Final EIR.

Conclusions of Law

1. Evidentiary hearings are not necessary.

2. SCE's supplemental testimony should be received into the record as Exhibit 1.

3. SLCC's supplemental testimony should be received into the record as Exhibit 2.

4. The Commission is the Lead Agency for compliance with the provisions of CEQA.

5. A Scoping Report on the El Casco Project was processed in compliance with CEQA.

6. A Draft EIR analyzing the environmental impacts of the El Casco Project was processed in compliance with CEQA.

7. A Final EIR on the El Casco Project was processed in compliance with the requirements of CEQA.

8. A Recirculated Draft EIR analyzing the environmental impacts of the El Casco Project was processed in compliance with CEQA.

9. A Recirculated Final EIR on the El Casco Project was processed and completed in compliance with the requirements of CEQA, and includes by reference and amendment the preceding documents.

10. The Scoping Report, Draft EIR, Final EIR, Recirculated EIR and Recirculated Final EIR should be received into the record of this proceeding as Reference Exhibits A, B, C, D and E, respectively.

11. The Recirculated Draft EIR and the Recirculated Final EIR (which includes the MMRCP) should be adopted, with the exception of Mitigation Measure HAZ-10.

12. The CEQA Findings of Fact in Attachment A should be adopted in their entirety, with the exception that Mitigation Measure HAZ-10 is infeasible as detailed in this decision.

13. Possible exposure to EMF has been reduced by the no-cost and low-cost measures SCE included in the Project (pursuant to D.93-11-013, and D.06-01-042).

14. The Commission, having considered the testimony of the parties and the economic, legal, social and technological benefits of the alternatives, should approve the Proposed Project. To the extent necessary, overriding considerations should be found to exist to approve the Proposed Project.

15. SCE should obtain all necessary easement rights, or other legal authority, to the Proposed Project site prior to commencing construction.

16. SCE's application for a PTC should be approved, subject to the mitigation measures set forth in the Recirculated Final EIR.

17. A.07-02-022 should be closed.

18. This order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company (SCE) is granted a Permit to Construct the El Casco Project. The El Casco Project consists of: (1) construction of a 220/115/12 kilovolt (kV) substation (El Casco Substation), associated 220 kV and 115 kV interconnections, and new 12 kV line getaways on an approximately 28 acre site located within the Norton Younglove Reserve in Riverside County, California; (2) upgrade of a total of approximately 15.4 miles of 115 kV subtransmission lines and associated structures within existing SCE rights-of-way in the Cities of Banning and Beaumont and unincorporated Riverside County; (5) rebuilding of 115 kV switchracks within SCE's existing Zanja and Banning substations in the Cities of Yucaipa and Banning, respectively; and (6) installation of fiber optic cables within public streets and on or through existing overhead and underground structures and conduits within the Cities of

Redlands and Banning, California. The El Casco Project would be entirely located within Riverside and San Bernardino Counties.

2. SCE's supplemental testimony is received into the record as Exhibit 1.

3. Citizens of Sun Lakes Country Club's supplemental testimony is received into the record as Exhibit 2.

4. The Scoping Report is received into the record of this proceeding as Reference Exhibit A.

5. The Draft Environmental Impact Report (EIR) is received into the record of this proceeding as Reference Exhibit B.

6. The Final EIR is received into the record of this proceeding as Reference Exhibit C.

7. The Recirculated Draft EIR is received into the record of this proceeding as Reference Exhibit D.

8. The Recirculated Final EIR is received into the record of this proceeding as Reference Exhibit E.

9. The Recirculated Final EIR (which incorporates the Draft EIR, Final EIR and Recirculated Draft EIR) is adopted pursuant to the requirements of the California Environmental Quality Act, Pub. Res. Code §§ 21000 *et seq*.

10. The Mitigation Monitoring, Reporting and Compliance Plan (MMRCP), included as part of the Recirculated Final EIR, is adopted, with the exception of Mitigation Measure HAZ-10.

11. The CEQA Findings of Fact in Attachment A are adopted in their entirety, with the exception that Mitigation Measure HAZ-10 is infeasible as detailed in this decision.

12. The Permit to Construct is subject to the mitigation measures set forth in the Recirculated Final EIR and MMRCP.

13. SCE shall have in place, prior to commencing construction, all of the necessary easements rights, or other legal authority, to the Project site.

14. Application 07-02-022 is closed.

This order is effective today.

Dated _____, at San Francisco, California.