

ALJ/MEG/k47

Decision 01-04-007 April 3, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into Implementation of Assembly Bill 970 regarding the identification of electric transmission and distribution constraints, actions to resolve those constraints, and related matters affecting the reliability of electric supply.

Investigation 00-11-001
(Filed November 2, 2000)

DECISION REQUIRING PACIFIC GAS AND ELECTRIC COMPANY TO CONDUCT BIOLOGICAL STUDIES FOR TRANSMISSION IMPROVEMENTS

Summary

This decision orders Pacific Gas and Electric Company (PG&E) to conduct studies of biological resources along the transmission corridor commonly referred to as "Path 15." We require PG&E to initiate these studies immediately in order to assure that PG&E is able to begin construction of Path 15 improvements as soon as possible, in the event the Commission so orders.

Background

The Commission is considering a variety of improvements to the state's transmission system. The Commission recently issued in this proceeding a staff report that finds one of the most critical constraints on the system is along Path 15. Path 15 is the corridor that runs north and south between PG&E and SCE's territory and is the backbone of the state's transmission system. The transmission capacity of Path 15 is no longer adequate to permit the ISO, on behalf of the state's utility customers, to make the most effective and efficient use

of the system. Lacking capacity constrains operational flexibility, compromising reliability and dispatch of lowest cost power resources.

In recognition of this problem, the Commission's President, Loretta Lynch, issued a ruling on March 29, 2001 directing PG&E to file for authority to improve Path 15 to relieve existing constraints. The ruling recognizes that PG&E's filing for a certificate of public convenience and necessity (CPCN) triggers the environmental review requirements of the California Environmental Quality Act.

In the event the Commission ultimately orders PG&E to construct improvements along Path 15, PG&E will have to conduct certain environmental evaluations. Among those, PG&E will have to assess certain biological resources during spring before any construction along Path 15 can be initiated. Unless the Commission acts expeditiously to determine a schedule for transmission system improvements, PG&E will be unable to conduct these studies this year, delaying initiation of any construction along Path 15 until after the spring of 2002. This is because biological studies are seasonally sensitive.

The Transmission Agency of Northern California (TANC), a joint powers authority of northern California municipal utilities, has reportedly begun some work assessing biological resources along Path 15. We do not have enough information to know whether TANC has the resources to complete the task, whether it intends to pursue improvements along Path 15, what those improvements might be, or how they might impact the customers of SCE and PG&E. In any event, the Commission cannot rely on entities outside of its jurisdiction to meet the needs of PG&E's and Edison's ratepayers whose interests the Commission has an obligation to promote and protect.

In light of the foregoing, we herein order PG&E to conduct studies of biological resources along Path 15 to begin immediately in order to provide the

Commission the option to require transmission improvements along Path 15 as soon as possible. If PG&E can demonstrate to the satisfaction of Commission staff within 3 days of the effective date of this order that biological resource studies would not need to be completed along the Path 15 prior to the initiation of construction along that corridor, PG&E may forego initiation of the studies and file a petition to modify this order. If PG&E does not receive written approval from Commission staff within 5 days of the effective date of this order relieving PG&E of its duty to comply with this order, PG&E must immediately initiate the studies.

The Commission has not conducted hearings on this matter. Pub. Util. Code § 311(g) provides for 30 days' public review and comment of draft decisions issued in matters which have not been heard; however, this period may be reduced or waived under certain circumstances. Biological resources studies are seasonally sensitive. In this instance we believe that our failure to adopt a decision ordering PG&E to conduct biological resources studies immediately would cause significant harm to the public welfare by impeding this Commission's ability to require transmission improvements along Path 15 as soon as possible. This concern clearly outweighs the public interest in having the public review and comment period. Accordingly, pursuant to Rule 77(f)(9), we will invoke public necessity to waive public review and comment of this draft decision so that it can be considered by the Commission on April 3, 2001.

Findings of Fact

1. The state's transmission system along Path 15 is not adequate to permit the effective and efficient operation of the state's electrical system.

2. If the Commission were to order a utility to construct improvements along Path 15, the utility would have to conduct biological resource studies before it could initiate construction.

3. Certain biological resource studies must be completed along Path 15 during the spring season in order for them to adequately inform the environmental assessment of Path 15 construction.

4. TANC may have initiated biological resource studies along Path 15 in anticipation of building system improvements.

5. The Commission has no jurisdiction over the transmission system investment decisions of the state's municipal utilities.

6. The Commission has a duty to protect and promote the interests of jurisdictional utilities' customers, notwithstanding the investment decisions of nonjurisdictional utilities.

Conclusions of Law

1. The Commission should order PG&E to begin studies of the biological resources along the Path 15 corridor as set forth herein. If PG&E can demonstrate to the satisfaction of Commission staff within 3 days of the effective date of this order that biological resource studies would not need to be completed along the Path 15 prior to the initiation of construction along that corridor, PG&E should be permitted to forego initiation of the studies and file a petition to modify this order. If PG&E does not receive written approval from Commission staff within 5 days of the effective date of this order relieving PG&E of its duty to comply with this order, PG&E should be required to initiate the studies immediately.

2. There is a public necessity for the Commission to adopt this order without hearings or opportunity for public review and comment because delaying the Commission's order will delay the biological resources studies ordered herein;

this could delay construction of transmission system improvements, compromise the reliability of the system and result in higher electricity costs for California customers.

3. Notice of this matter did not appear on the Commission's posted agenda, but there is a need to add this item to the agenda on less than 10 days notice, pursuant to Govt. Code § 11125.3(a)(2), in order to take immediate action to insure prompt commencement of the biological resources studies this spring; this issue of seasonal sensitivity came to the attention of the Commission subsequent to the posting of its agenda on March 16, 2001.

O R D E R

IT IS ORDERED that Pacific Gas and Electric Company (PG&E) shall begin studies of the biological resources along the Path 15 corridor as set forth herein. If PG&E can demonstrate to the satisfaction of Commission staff within 3 days of the effective date of this order that biological resource studies would not need to be completed along the Path 15 prior to the initiation of construction along that corridor, PG&E shall forego initiation of the studies and file a petition to modify this order. If PG&E does not receive written approval from Commission staff within 5 days of the effective

date of this order relieving PG&E of its duty to comply with this order, PG&E shall initiate the biological resource studies immediately.

This order is effective today.

Dated April 3, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

Commissioner Richard A. Bilas, being necessarily absent, did not participate.