

Decision 10-12-042 December 16, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Certificate of Public Convenience and Necessity for the CPV Sentinel 220kV Transmission Line.

Application 08-12-011
(Filed December 16, 2008)

**DECISION GRANTING CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY FOR CPV SENTINEL 220KV TRANSMISSION LINE**

1. Summary

Pursuant to Pub. Util. Code §§ 1001 et seq. and General Order 131-D, this decision grants the request of Southern California Edison Company for a Certificate of Public Convenience and Necessity for the construction of a new 2,300-foot long 220 kilovolt single-circuit transmission line that will connect the CPV Sentinel Energy Project, a proposed 850-megawatt natural gas-fired generating facility, owned and operated by CPV Sentinel, LLC, to the California Independent System Operator-controlled grid at Southern California Edison Company's existing Devers Substation. The facility is anticipated to cost \$10.5 million in nominal dollars. All costs will be borne by the owner of the power plant, i.e., CPV Sentinel, LLC, and will have no impact on ratepayers. This proceeding is closed.

2. Background

On December 16, 2008, Southern California Edison Company (SCE) filed Application (A.) 08-12-011 to request a certificate of public convenience and necessity (CPCN) to construct and own the new 2,300-foot long 220 kilovolt (kV)

single-circuit transmission line described above. This type of transmission facility is commonly known as a “tie-line.” Once the CPV Sentinel Energy Project (Project) is connected to the California Independent System Operator (CAISO)-controlled grid by the tie-line, the power plant will provide additional sources of electrical power.

CPV Sentinel, LLC (Sentinel) is the developer of the Project, subject to certification by Energy Resources Conservation and Development Commission (California Energy Commission or CEC). Consistent with the Large Generator Interconnection Agreement between Sentinel and SCE, the developer and owner of the power plant is Sentinel. As stated in the application, all costs to construct, operate, and maintain the transmission line will be borne by Sentinel.

SCE filed A.08-12-011 on December 16, 2008. Notice of A.08-12-011 appeared in the Commission’s Daily Calendar on December 19, 2008. No party filed a protest. In addition, on December 23, 2008, SCE filed and served a declaration that stated SCE had provided the various notices required by General Order (GO) 131-D, Section XI.A.1 and A.3, including the following:

- Notice of A.08-12-011 provided by direct mail to (i) all owners of property within 300 feet of the right-of-way; (ii) the planning commission and the legislative body for each county or city in which the proposed facility would be located; and (iii) the Federal, State, and local agencies specified in GO 131-D that have jurisdiction over the proposed tie-line.
- Notice of A.08-12-011 provided by posting on-site and off-site where the project will be located.¹

¹ GO 131-D, Section XI.A.2. also requires notice in a newspaper of general circulation in the county in which the proposed facilities will be located. SCE informed staff that such a newspaper does not exist in unincorporated Riverside County.

3. Discussion

3.1. Need and Cost

In its application, SCE states that “Consistent with Commission precedent in Decision No. (D.) 93-10-039 (Crockett), if a project is needed to interconnect generation and the developer is paying the costs associated with the transmission line, then need, cost-effectiveness, and ratepayer impact of the tie-line are not at issue in the CPCN.” However, consistent with more recent decisions, such as D.06-10-048 and D.08-03-007, we address these issues briefly here, pursuant to the requirements set forth in Pub. Util. Code §§ 1001 et seq. and GO 131.

The Project will be interconnected to the SCE Devers Substation 230kV bus by building a new 2,300-foot long, 230kV single circuit overhead transmission line with steel reinforced aluminum conductor on nine 85-foot to 115-foot high tubular steel poles. Approximately 1,800 feet of the line will be outside of the CPV Sentinel plant or Devers Substation boundaries and this portion of the line would follow SCE’s right-of-way for existing SCE 230kV and 115kV lines adjacent to Powerline Road.

This application is subject to Pub. Util. Code §§ 1001 et seq. and GO 131-D. GO 131-D, Section III.A² states as follows:

No electric public utility shall begin construction in this state of any new ... major electric transmission line facilities which are designed for immediate or eventual operation at 200 kV or more ... without this Commission having first found that said facilities are necessary to promote the safety, health, comfort and convenience of the public, and that they are required by the public convenience and necessity.

² GO 131-D implements §§ 1001 et seq. with respect to electric generation, transmission, and distribution facilities. (GO 131-D, Section I.)

The Energy Action Plan II, our energy policy statement jointly issued with the CEC in October 2005 and updated in 2008,³ recognized the urgent need for construction of new electrical generation and transmission infrastructure facilities to support California's growing energy demands. In addition, D.08-09-041 authorized SCE to sign four power purchase agreements (PPAs) for up to 1,350.30 megawatts (MW) selected in the standard track of its New Generation Request for Offers, and approved the allocation of the benefits and costs of the four PPAs to all benefitting customers in accordance with D.06-07-029, and D.07-09-044. The PPA with Sentinel was specifically approved in D.08-09-041:

273 MW of expected capacity and associated energy from three General Electric LMS 100 gas turbines to be located in Riverside County, California, for delivery from May 1, 2012 through April 30, 2022, from CPV Sentinel, LLC (CPV), a special purpose entity and joint venture between GEL Funding, Inc. and CPV Power Development, Inc.⁴

We find that the proposed tie-line is needed. The tie-line will provide additional electric transmission by enabling Sentinel to connect with the grid and will allow SCE to access new generation that will provide reliability for Southern California and will meet growing local demand in the Coachella Valley and Riverside County. SCE is authorized to procure this additional generation, which will provide energy, capacity, and ancillary services, including quick-start peaking capacity. SCE's original planning horizon called for the subject tie-line

³ <http://www.cpuc.ca.gov/PUC/energy/Resources/Energy+Action+Plan/>

⁴ D.08-09-041 at 3.

and interconnection facilities to be fully operational in August 2010. While that timeframe is no longer realistic, since the CEC certified the Project on December 1, 2010, the tie-line and other interconnection facilities must be in place well before the Project comes on-line, in order to provide power during the construction and testing phases of the power plant.

The estimated cost to build the tie-line facilities, interconnection facilities and network upgrades is \$10.15 million in nominal dollars. SCE and Sentinel have agreed that Sentinel will pay all costs for the tie-line and that SCE will construct, own, operate, and maintain the tie-line. This arrangement is consistent with the policy of the Federal Energy Regulatory Commission, which requires the owners of power plants to shoulder the costs of connecting new power plants to the grid.

Accordingly, SCE represents that none of the costs for the tie-line will be borne by ratepayers. SCE's shareholders will assume all risk and liability of the tie-line based on its agreement with the project developer. SCE will not pass on, directly or indirectly, any costs, risks, or liability associated with the transmission project to ratepayers. We grant A.08-12-011 with these conditions in place to ensure that ratepayers are protected financially. Given these conditions, we find that we need not consider the requirements of Pub. Util. Code § 1002.3 and do not address the cost-effectiveness of the Project here.

3.2. Environmental Review

Pursuant to California Public Resources Code §§ 21000 et seq. and the California Environmental Quality Act (CEQA), the CEC has conducted the environmental review of the generating facility and the tie-line, as part of its

Application for Certification (AFC) process.⁵ SCE submitted the CEC's Final Staff Assessment (issued on October 10, 2008) as its Proponent's Environmental Assessment (PEA) and asserted that because the CEC staff has already reviewed the tie-line pursuant to CEQA, there is no need for this Commission to conduct any additional environmental review of the application.

The Commission is required by CEQA to consider the environmental consequences of a project that is subject to the Commission's discretionary approval. In doing so, the Commission must act as either a Lead Agency or Responsible Agency. The Lead Agency is the one with the most responsibility for supervising or approving the project as a whole.⁶

In this case, the CEC is the Lead Agency and the Commission is a Responsible Agency. As Lead Agency, the CEC has conducted an environmental analysis of the Sentinel Project and associated tie-line pursuant to the CEC's jurisdiction under Public Resources Code §§ 25500 et seq., to site power plants and their related tie-lines. The CEC's siting process and associated documents are functionally equivalent to an Environmental Impact Report.⁷

CEQA requires the Commission to consider the Lead Agency's environmental documents and findings before acting upon or approving a project.⁸ The Commission must review the CEC's environmental documents and findings, including any Conditions of Certification or mitigation or monitoring

⁵ The provisions of CEQA are set forth in Public Resources Code §§ 21000 et seq.

⁶ CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations), Section 15051(b).

⁷ Public Resources Code § 25519(c).

programs, if any, as they pertain to the tie-line and cannot rely on the Final Staff Assessment for these purposes. By Order No. 10-1201-24, issued on December 1, 2010, the CEC certified the Final Staff Assessment, finding that the 850-megawatt facility, as mitigated, will have no significant impacts on the environment and that it complies with applicable laws, ordinances, regulations, and standards.

The CEC's environmental analysis assessed the impacts of the Sentinel Project and tie-line with respect to transmission line engineering, safety and nuisance; air quality; public health; hazardous materials management; worker safety/fire protection; biological resources; soil and water resources; cultural resources; geological and paleontological resources; waste management; land use; noise; socio-economics; traffic and transportation; and visual resources. As a result of its environmental analysis, the CEC adopted several Conditions of Certification for the Sentinel Project and tie-line in its lengthy Order. The CEC has determined that:

1. The Compliance Plan and the specific Conditions of Certification contained in this Decision assure that the Sentinel Project will be designed, constructed, operated, and closed in conformity with applicable law;
2. Requirements contained in the Compliance Plan and in the specific Conditions of Certification are intended to be implemented in conjunction with one another;
3. The compliance and monitoring provisions incorporated as part of the CEC's Order satisfy the requirements of Public Resources Code § 25532; and

⁸ CEQA Guidelines, Sections 15050(b) and 15096.

4. The Compliance Plan included in the CEC's Order should be adopted.⁹

CEQA requires the Commission to consider the Lead Agency's environmental documents and findings before acting upon or approving a project.¹⁰ Here, the Project before the Commission is the tie-line.

The record in this proceeding includes CEC Order No. 10-1201-24, which contains the CEC's environmental analysis and Conditions of Certification. We have reviewed the CEC's environmental documents and findings as they pertain to the tie-line, and we find these documents are adequate for our decision-making purposes. The proceeding was delayed at the CEC for extensive consideration of the issuance of air quality permits; this issue has been reasonably addressed in the CEC's Order.

We conclude that the CEC reasonably found that the proposed tie-line, as conditioned, will not result in any significant, direct, indirect, or cumulative adverse environmental impacts. Therefore, consistent with CEQA Guidelines, Sections 15091(a)(1) and 15096(h), we will adopt the CEC's Conditions of Certification that pertain to the tie-line. The CEC is responsible for monitoring compliance with its Conditions of Certification. Thus, there is no need for us to adopt a program for monitoring and enforcing compliance with the CEC's Conditions of Certification as would otherwise be required by CEQA Guidelines, Section 15091(d).

⁹ CEC Order No. 10-1201-24 at 34.

¹⁰ CEQA Guidelines, Sections 15050(b) and 15096.

3.3. Compliance with Electric and Magnetic Fields Policy

The Commission has examined electric and magnetic fields (EMF) impacts in several previous proceedings.¹¹ 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 EMF 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.A, that all requests for a CPCN include a description of the measures taken or proposed by the utility to reduce the potential for exposure to EMFs generated by the proposed Project. We developed an interim policy that requires utilities, among other things, to identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce the potential EMF impacts. The benchmark established for low-cost measures is 4% of the total budgeted project cost that results in an EMF reduction of at least 15% (as measured at the edge of the utility right-of-way).

The Field Management Plan contained in the Application¹² addresses the EMF measures that will be taken in connection with the Project. As a no-cost

¹¹ See D.06-01-042 and D.93-11-013.

¹² Appendix G.

option, SCE will ensure that the proposed 220kV transmission line will be phased for magnetic field reduction. SCE did not investigate low-cost field reduction options because of engineering constraints and because the line route runs primarily within an SCE right-of-way in open areas adjacent to SCE and Sentinel facilities. We adopt the Field Management Plan for the proposed Project and require SCE to comply with it.

4. Comments on the Proposed Decision Are Waived.

No party filed a protest to this application and the proposed decision grants the relief requested. Pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, we waive the public review and comment period.

5. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Angela Minkin is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. D.08-09-041 authorized SCE to sign four PPAs for up to 1,350.30 megawatts selected in the standard track of its New Generation Request for Offers, and approved the allocation of the benefits and costs of the four PPAs to all benefitting customers in accordance with D.06-07-029 and D.07-09-044.

2. The PPA with Sentinel was specifically approved in D.08-09-041. The proposed tie-line must be constructed in order to deliver the needed power from the Project to the transmission grid.

3. SCE and Sentinel have entered into agreements whereby Sentinel will pay the total costs associated with the tie-line, with no impact on ratepayers.

4. Pursuant to those agreements, the total costs associated with the tie-line are anticipated to equal \$10.15 million in nominal dollars and consist of all

construction, operation, maintenance, and administrative charges associated with the Project, including engineering and design costs of the Project.

5. SCE's shareholders will assume all risk and liability of the tie-line and will not pass on, directly or indirectly, any costs, risks, or liability to ratepayers.

6. The CEC is the lead agency under CEQA for the Project and the associated tie-line. The Commission is a Responsible Agency under CEQA.

7. The CEC conducted an environmental analysis of the Project and associated tie-line. The CEC found in Order No. 10-1201-24 that the proposed tie-line, with the CEC's Conditions of Certification, would not result in, nor contribute substantially to, any significant, direct, indirect, or cumulatively adverse environmental impacts. The CEC is responsible for monitoring and enforcing compliance with its Conditions of Certification.

Conclusions of Law

1. The proposed tie-line is (i) necessary to promote the safety, health, comfort, and convenience of the public, and (ii) required by the public convenience and necessity.

2. There is no need to consider the cost-effectiveness of the proposed tie-line because SCE's ratepayers will not bear any of the costs for the tie-line pursuant to the following order.

3. SCE should be granted a CPCN pursuant to Pub. Util. Code §§ 1001 et seq. and GO 131-D to construct, own, operate, and maintain the tie-line as described in A.08-12-011, subject to the conditions set forth below.

4. Pursuant to Public Resources Code § 25519(c), CEC Order No. 10-1201-24 is functionally equivalent to an environmental impact report under CEQA. These documents are adequate for the Commission's decision-making purposes,

and the Commission has considered these documents in its decision-making process in accordance with CEQA Guidelines, Section 15096(f).

5. The CEC reasonably concluded that its adopted Conditions of Certification will ensure that that the tie-line will not result in, or contribute substantially to, any significant, direct, indirect, or cumulatively adverse environmental impacts.

6. Pursuant to CEQA Guidelines, Section 15096(g)(1), and to ensure there are no adverse environmental impacts from the tie-line, the granting of a CPCN for the tie-line should be subject to the Conditions of Certification and Compliance Verifications applicable to the tie-line that are contained in CEC Order No. 10-1201-24.

7. Possible exposure to EMF has been reduced by the no-cost measures SCE will include in the Project, as specified in Appendix G of the Application, pursuant to D.93-11-013, and D.06-01-042.

8. SCE's Field Management Plan contained in Appendix G of A.08-12-011 complies with GO 131-D and the low-cost, no-cost EMF policy adopted by the Commission in D.06-01-042.

9. No hearings are required in this proceeding.

10. The following order should be effective immediately so that construction of the tie-line for the Project may begin expeditiously.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Southern California Edison Company pursuant to Pub. Util. Code §§ 1001 et seq. and General Order 131-D to construct, own, operate, and maintain a 230 kilovolt transmission line from the CPV Sentinel Energy Project to Southern California Edison Company's Devers Substation, subject to the following conditions:

- a. Southern California Edison Company shall not recover from its ratepayers, either directly or indirectly, any costs for the transmission line, including any costs to construct, own, operate, or maintain the line. Southern California Edison Company shall not pass on to its ratepayers, either directly or indirectly, any risks or liabilities associated with the transmission line.
- b. Southern California Edison Company shall comply with all Conditions of Certification and Compliance Verifications applicable to the transmission line that are contained in Order No. 10-1201-24 issued by the California Energy Resources Conservation and Development Commission in Docket No. 07-AFC-03.

2. Application 08-12-011 is closed.

This order is effective today.

Dated December 16, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners