PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4284**
November 20, 2009

R E S O L U T I O N

Resolution E-4284. Southern California Edison Company's (SCE).

PROPOSED OUTCOME: This Resolution approves SCE's Advice Letter 2373-E seeking approval under Public Utilities Code Section 851 to consent to Kelly John Brooks and Connie Lynne Brooks, as Trustees of the Kelly John Brooks and Connie Lynne Brooks Family Trust (collectively the "Grantees") use of SCE's exclusive easement to use, keep, maintain and repair an existing dwelling for residential purposes that is encroaching upon certain SCE property located in Shaver Lake, CA (the "Site"). This resolution has been prepared pursuant to a pilot program specified in Resolution ALJ-202 granting expedited treatment to utility proposals meeting certain requirements.

ESTIMATED COST: $500.

By Advice Letter 2373-E. Filed on August 20, 2009.

SUMMARY

This Resolution approves SCE's Advice Letter 2373-E seeking approval under Public Utilities Code Section 851 to consent to The Grantees use of SCE's exclusive easement to use, keep, maintain and repair part of the existing building on the Site for noncommercial residential purposes. Advice Letter 2373-E was processed pursuant to Resolution ALJ-202, providing for expedited action for transactions meeting certain requirements. This Resolution is effective immediately.

BACKGROUND

Utilities proposing to sell, lease, dispose of, or otherwise encumber property necessary or useful to the performance of its duties to the public must comply with Public Utilities (PU) Code Section 851. Ordinarily, such a proposal would entail a full Application to the Commission, including a review pursuant to CEQA or a demonstration that such a review is not necessary. The Commission has initiated a pilot program per Resolution ALJ-202 that provides for an expedited process for certain transactions meeting criteria specified in the ALJ Resolution. For proposals that meet the requirements, an Advice Letter may be filed demonstrating the applicability of the pilot program to the utility's proposal and requesting an expedited review of the Advice Letter, resulting in a Resolution confirming that the proposal meets the requirements of Resolution ALJ-202 and granting approval to the proposed project.

On August 20, 2009, SCE filed Advice Letter 2373-E requesting Commission approval under Public Utilities Code 851 to consent to the Grantees use of SCE's exclusive easement to use, keep, maintain and repair of an existing dwelling on a certain SCE property located at Shaver Lake which is part of the Big Creek Hydroelectric Project (the "Site"). SCE owns the property in full.

The Brooks' property is located at 44287 Lakeview, Shaver Lake, California. Kelly John Brooks and Connie Lynne Brooks (collectively "the Brooks") purchased the property from a previous owner in September 2002. This is a single-family residence which was constructed over 20 years ago. The property is located adjacent to the Site which is owned in full by SCE. The property owned by SCE is designated as Assessors Parcel Number (APN) 120-270-05U. Subsequent to the purchase of the property, the Brooks considered a possible garage addition to the property and retained an engineering firm to perform a survey of the Brooks property. The survey revealed that a corner of the residence encroached onto the Site. The Site is a small portion of land, approximately 548.34 square feet. Upon learning that the residence encroached onto the Site, the Brooks filed a civil complaint against the former owners, First American Title Insurance, and SCE in Fresno County Superior Court on August 11, 2004. In their complaint, the Brooks seek prescriptive easement rights and other equitable relief against SCE. In order to avoid further litigation of the dispute, SCE and the Brooks entered into a Settlement Agreement. The Settlement Agreement proposes to settle the lawsuit between the parties and for SCE to grant the easement to the Brooks for the Site. If the Commission

authorizes SCE to grant the easement, and any necessary Federal Energy Regulatory Commission approval is obtained, then the easement would be executed by SCE, accepted by the Brooks, and recorded with the County of Fresno. Then the Brooks will dismiss the lawsuit against SCE.

The easement will give the Brooks the right to use, keep, maintain and repair part of the existing dwelling on the Site for noncommercial, residential purposes. The easement would be issued in perpetuity as is customary for easements.

The easement provides that the Brooks' exercise of the easement rights shall not unreasonably endanger or interfere with the construction, maintenance, use or operation of SCE's adjacent lands for necessary utility purposes.

The easement will not interfere with SCE's existing facilities. Utility service will not be affected as a result of Commission approval of the easement. The easement does not allow the Grantees to develop the property in any way other than as it is currently used. The Grantees will be responsible for all personal property taxes, as well as other general or special assessments or fees levied against the Site or the Grantees improvements thereon. The easement contains reversionary clauses if the Grantees violate the terms of the easement.

In consideration of the easement SCE is collecting $500. SCE will use the funds to help cover the administrative costs involved in the preparation and recordation of the Grant of Easement. No property is being sold or disposed of, and as such, there are no changes to SCE's rate base as a result of granting the proposed easement.

This transaction will not require environmental review by the CPUC as a lead or responsible agency. This is not a "project". The grant of easement for use of the Site within a portion of the SCE's property does not meet the definition of a "project" as provided in CEQA Guideline 15378, and in accordance with CEQA Guideline 15060 (c), CEQA does not apply.

NOTICE

Notice of AL 2373-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

No protests or comments to SCE's Advice Letter AL 2373-E were filed.

DISCUSSION

The Energy Division has reviewed SCE's Advice Letter 2373-E and finds that it satisfies the criteria for inclusion in the pilot program specified in Resolution ALJ-202. Additionally, AL 2373-E satisfies the filing requirements specified in Appendix A Section IV.1-13 of Resolution ALJ-202 and includes all of the information necessary to provide a satisfactory review of SCE's seeking of approval consent to the Grantees use of SCE's exclusive easement to use, keep, maintain and repair part of the existing dwelling on the site for noncommercial, residential purposes.

The Energy Division finds that expedited treatment pursuant to Section II of Resolution ALJ-202 is appropriate for AL 2373-E and that no reason to deny the approval of Advice Letter 2373-E exists pursuant to Section VII. A. 3 of Resolution ALJ-202.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS

1. Commission Resolution ALJ-186 as Extended and Modified by Resolution ALJ-202 (Section 851 Pilot Program) directed SCE to file an Advice Letter requesting Commission approval under Public Utilities Code 851 to consent to the Grantees an easement for use of a portion of SCE's property for a residence for noncommercial use.
2. On August 20, 2009 SCE filed Advice Letter 2373-E requesting Commission approval under Public Utilities Code 851 to consent to the Grantees an easement for use of a portion of SCE's property for a residence for noncommercial use.

3. SCE filed AL 2373-E pursuant to a pilot program specified in Resolution ALJ-202.
4. No protests or comments were received by the Commission.
5. SCE requests Commission approval under Public Utilities Code 851 to consent to the Grantees an easement for use of SCE's property for residential purposes. The Grantees will be able to use, keep, maintain and repair this existing dwelling for noncommercial, residential purposes.
6. The property is located in Shaver Lake, California.
7. The SCE owned property is designated as Assessors Parcel Number (APN) 120-270-05U (Portion).
8. The Grantees' property, located at 44287 Lakeview, Shaver Lake California, encroaches on 548.34 square feet of SCE owned property at Shaver Lake. SCE owns the property for the purpose of operating and maintaining the Shaver Lake reservoir, which is part of the Big Creek Hydroelectric Project.
9. The easement will not interfere with SCE's existing facilities.
10. SCE is collecting Five Hundred Dollars ($500.00) from the Grantees in consideration for the easement.
11. This action does not meet the definition of a "project" as provided in CEQA Guideline 15378.

THEREFORE IT IS ORDERED THAT:

1. The request of SCE to consent to an easement to the Grantees to use part of SCE's property as a residential dwelling, as requested in Advice Letter AL 2373-E is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on November 20, 2009; the following Commissioners voting favorably thereon:

/s/ Paul Clanon
Paul Clanon
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners