

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION E-3995
May 16, 2006**

R E S O L U T I O N

Resolution E--3995. Executive Director's order dismissing the protest by Mr. Charlie Thomsen to the Pacific Gas and Electric Company (PG&E) claim of exemption from General Order 131-D permitting requirements for construction of the U.C. Davis 60kV to 115kV Conversion Project in the City of Davis. This Resolution approves PG&E's Advice Letter 2612-E.

By Advice Letter 2612-E. Filed on January 11, 2005.

SUMMARY

This Resolution approves PG&E's Advice Letter 2612-E with an effective date of today. Pursuant to this advice letter, PG&E proposes to convert an existing 60kV twin pole line between Davis Substation and the UC Davis Service Meter to 115kV to increase reliability and capacity in the region.

The 20-day protest period for Advice Letter 2612-E closed on January 31, 2005. Mr. Charlie Thomsen filed a protest to Advice Letter 2612-E on January 31, 2005. The protestant raised concerns in the following areas: cultural resources; aesthetics; traffic; cumulative impacts; and environmental justice.

The Commission's General Order (GO) 131-D governs the planning and construction of electric generation, transmission/power/distribution line facilities and substations. The project falls within and qualifies for the exemptions cited by PG&E. None of the concerns raised by the protestant fits within the specific exceptions to the exemptions of GO 131-D, nor do the protestant's claims support a claim of misapplication of an exemption by PG&E. Therefore, the protest is denied for failure to state a valid reason.

BACKGROUND

Electric utilities proposing to relocate transmission lines must comply with GO 131-D which, among other things, provides for filing an application for a Permit to Construct unless the project is exempt for certain reasons specified in Section III.B. of the GO.

Section XIII of GO 131-D provides that any person or entity may protest a claim of exemption for one of two reasons: 1) that the utility incorrectly applied a GO 131-D exemption, or 2) that any of the conditions exist which are specified in the GO to render the exemption inapplicable. GO 131-D, Section III.B.2. states that an exemption shall not apply to a construction project when: 1) there is reasonable possibility that the activity may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies; or 2) the cumulative impact of successive projects of the same type, in the same place, over time, is significant; or 3) there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. If a timely protest is filed, construction shall not commence until the Executive Director has issued an Executive Resolution either requiring the utility to file an application for a Permit to Construct or dismissing the protest.

On January 11, 2005, PG&E filed Advice Letter 2612-E claiming an exemption from the requirements of GO 131-D for construction of the U.C. Davis 60kV to 115kV Conversion Project in the City of Davis. PG&E proposes to convert an existing 60kV twin pole line between Davis Substation and the UC Davis Service Meter to 115kV to increase reliability and capacity in the region. The Project will replace 33 of 77 wood poles with new wood poles along an approximately 1.5 mile route. Insulators and pole framing will be replaced as needed to maintain clearance with under-built distribution circuits; the existing conductor will be retained on both of the existing lines.

PG&E claimed exemption from the requirement to file for a Permit to Construct, as prescribed by GO 131-D, Sections XI.B. and C. PG&E's claim of exemption was based on Section III.B.1.(g), which exempts "power line facilities or substations to be located in an existing franchise, road-widening setback easement, or public utility easement; or in a utility corridor designated, precisely mapped and officially adopted pursuant to law by federal, state or local agencies

for which a final Negative Declaration or EIR finds no significant unavoidable environmental impacts.”

The 20-day protest period for Advice Letter 2612-E closed on January 31, 2005. One protest to Advice Letter 2612-E was received from Mr. Charlie Thomsen. PG&E responded to the above protest on February 9, 2005.

NOTICE

PG&E distributed a Notice of Proposed Construction in accordance with Section XI.B. and C. of GO 131-D, including the filing and service of Advice Letter No. 2687-E in accordance with Section III of GO 96-A.

PROTESTS

The 20-day protest period for Advice Letter 2687-E closed on January 31, 2005. One protest to Advice Letter 2612-E was received on January 31, 2005. The protestant raised concerns in the following areas: cultural resources; aesthetics; traffic; cumulative impacts; and environmental justice.

PG&E responded to the protest of Advice Letter 2612-E on February 9, 2005. PG&E's response argues that the protest should be dismissed in the first instance because it was not properly served on PG&E by the close of the comment period (the protestant served the Commission which forwarded the protest to PG&E). In the second instance, PG&E argues that the protest should be dismissed because none of the protestant's arguments are relevant to any issue that may properly be raised in a protest pursuant to GO 131-D, Section XIII - i.e., that PG&E has either incorrectly applied for an exemption, or that one of the three special conditions outlined in GO 131-D Section III.B.2 exist. PG&E asserts that the protestant's arguments fail to address, much less establish, how the claimed exemption to GO 131-D fails to apply to the project outlined in Advice Letter 2612-E. PG&E asserts that the protestant has also failed to establish that the project area involves any "unusual circumstances" that would trigger any exception to an exemption as specified in GO 131-D Section III.B.2. Furthermore, PG&E asserts that the protestant has provided no evidence to support the claims made in his protest.

PG&E asserts that the protest fails to state a valid reason for denying PG&E's claim to an exemption from the requirements of GO 131-D for a Permit To

Construct for this project. PG&E also asserts that the protestant failed to state why PG&E has incorrectly applied the exemptions from the permit requirements provided in Section III.B.1 of the GO. In summary, PG&E asserts that the protestant has failed to meet his burden of showing that PG&E's claim for exemptions from the permit requirements of GO 131-D are invalid and should therefore be dismissed for failure to state a valid reason.

DISCUSSION

The protestant is concerned that PG&E's project will impact him in a variety of ways because of inadequate attention to cultural resources; aesthetics; traffic; cumulative impacts; and environmental justice.

In its response to the protest, PG&E addressed each of the areas of concern expressed by the protestant. PG&E correctly argues that the U.C. Davis 60kV to 115kV Conversion Project in the City of Davis falls squarely within the context for an exemption from GO 131-D PTC requirements and does not broach the exceptions-to-exemptions clause specified in GO 131-D, Section III.B.2. Furthermore, PG&E correctly argues that the noticing requirements of GO 131-D, Section IX.B were properly followed by the Company for Advice Letter 2612-E. PG&E convincingly argues, despite the alleged lack of validity to the protest, that the U.C. Davis 60kV to 115kV Conversion Project in the City of Davis is highly unlikely to have any significant impacts in the areas of cultural resources, aesthetics, traffic, cumulative impacts, or environmental justice, and that no significant unavoidable environmental impacts are likely to result from the PG&E project.

In its response to the protest, PG&E stated that the protestant failed to raise a valid protest because he failed to provide a valid reason why PG&E should be required to apply for a Permit to Construct for the proposed project or why PG&E has incorrectly applied the claimed exemption from the PTC application requirement. PG&E appears to have correctly applied the exemption for obtaining a Permit to Construct set forth in GO-131D, Section III.B.1.(g).

PG&E followed the notification procedures required in GO 131-D for this project. The protestant has not shown that PG&E incorrectly applied a GO 131-D exemption. Nor has the protestant shown that any of the conditions specified in GO 131-D, Section III.2. exist. Because these are the only three valid reasons for sustaining a protest, the protest should be denied.

FINDINGS

1. PG&E filed Advice Letter 2612-E on January 11, 2005.
2. PG&E proposes to convert an existing 60kV twin pole line between Davis Substation and the UC Davis Service Meter to 115kV to increase reliability and capacity in the region. The Project will replace 33 of 77 wood poles with new wood poles along an approximately 1.5 mile route. Insulators and pole framing will be replaced as needed to maintain clearance with under-built distribution circuits; the existing conductor will be retained on both of the existing lines.
3. PG&E requests an exemption from a Permit to Construct, under GO 131-D, Section III.B.1.(g).
4. PG&E distributed a Notice of Proposed Construction in accordance with Section XI.B. and C. of GO 131-D, including the filing and service of Advice Letter No. 2612-E in accordance with Section III of GO 96-A.
5. A protest to Advice Letter 2612-E was received by the Commission from Mr. Charlie Thomsen on January 31, 2005. The protestant raised concerns in the following areas: cultural resources; aesthetics; traffic; cumulative impacts; and environmental justice.
6. PG&E responded to the protest to Advice Letter 2612-E on February 9, 2005, via letter to the Director of the Energy Division. PG&E contends that the protest should be denied because in the first instance the protest was not properly served on PG&E, and in the second instance because it fails to provide a valid reason why PG&E should be required to apply for a Permit to Construct for the proposed project or why PG&E has incorrectly applied the exemptions from the PTC application requirement provided for in GO 131-D.
7. PG&E followed the notification procedures required in GO 131-D for this project.
8. GO 131-D provides that any person or entity may protest a claim of exemption for one of two reasons: 1) that the utility incorrectly applied a GO

131-D exemption, or 2) that any of the conditions exist which are specified in the GO to render the exemption inapplicable.

9. The protestant has not shown PG&E incorrectly applied a GO 131-D exemption. Nor has the protestant shown that any of the conditions specified in GO 131-D Section III.B.2. exist to invalidate the claimed exemption.
10. PG&E has correctly applied for a GO 131-D exemption in Advice Letter 2612-E.

THEREFORE IT IS ORDERED THAT:

1. PG&E's Advice Letter No. 2612-E is approved.
2. The protest of Mr. Charlie Thomsen is denied.

This Resolution is effective today.

I certify the foregoing under the authority of General Order 131-D. Dated May 16, 2006, at San Francisco, California.

Steve Larson
Executive Director