

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4089
May 24, 2007

R E S O L U T I O N

Resolution E-4089. Pacific Gas & Electric Company (PG&E). This resolution approves PG&E's Advice Letter 2994-E to enter into an Encroachment Agreement with Saintsbury Winery ("Saintsbury") permitting Saintsbury to construct a solar collection system within a PG&E easement. This resolution has been prepared pursuant to a pilot program specified in Resolution ALJ-186 granting expedited treatment to utility proposals meeting certain requirements.

By Advice Letter 2994-E. Filed on February 27, 2007.

SUMMARY

This Resolution approves PG&E's Advice Letter 4089-E seeking authority under Public Utilities (PU) Code Section 851 to enter into an Encroachment Agreement with Saintsbury permitting Saintsbury to construct a solar collection system within a PG&E easement located in Napa County, where the easement provides that no building or like structure shall be erected or constructed within the easement area. Advice Letter 2994-E was processed pursuant to Resolution ALJ-186, Appendix B, Section III.A.1.b, providing for expedited action for transactions subject to statutory or categorical exemption from CEQA. This Resolution is effective immediately.

BACKGROUND

Utilities proposing to sell, lease, dispose of, or otherwise encumber property must comply with PU Code Section 851. Under recent amendments to PU Code Section 851, for certain transactions valued at \$5,000,000 or less, the utility can file an advice letter and obtain a resolution from the Commission authorizing the transaction. The Commission has initiated a pilot program per Resolution ALJ-186 that provides certain criteria required for a PU Code Section 851 transaction to qualify for advice letter treatment.

On February 27, 2007, PG&E filed Advice Letter 2994-E pursuant to the pilot program seeking authority under PU Code Section 851 to enter into an Encroachment Agreement with Saintsbury permitting Saintsbury to construct a solar collection system within a PG&E easement. Protests or comments were due to the Commission on March 29, 2007; no protests or comments were filed.

The Saintsbury 40-acre winery and vineyard is located in the southern most part of Napa and Sonoma Valley near Highway 29 and Highway 12 in Napa County ("Property"). The proposed solar collection system will be constructed within PG&E's easement area for the purpose of providing renewable solar energy to power Saintsbury bottling operation.¹ For over a decade, Saintsbury has contributed significant amounts of fruit to winemaking in the Napa region as well as provided bottling for grapes grown in its own vineyards. Currently, Saintsbury produces approximately 60,000 cases of wine annually, which places the winery in a higher energy usage tier.²

Winery energy consumption is generally concentrated during the summer/fall crush when energy costs are the highest. The proposed solar collection system would reduce Saintsbury's annual energy demand from the PG&E electric system by supplementing it with the renewable solar energy generated from the installed solar collection system.

PG&E owns, operates and maintains the Lakeville-Tulucay 230 kV electric transmission line ("Transmission Line"), a portion of which is located on the Saintsbury Winery and Vineyard located at 1500 Los Carneros Avenue, Napa County, California, and identified as Assessors Parcel Number ("APN") 047-212-002. PG&E owns an easement for the transmission of electric energy and for all other purposes connected therewith, as set forth in the Grant of Easement dated

¹ Saintsbury is a participant in PG&E's Self Generation Incentive Program ("SGIP"), which offers financial incentives to PG&E customers who install new, self-generation equipment to meet all or a portion of their electric energy needs at a particular location. The units may be renewable or non-renewable.

² California has over 1100 wineries that produce 500 million gallons of wine per year and contribute about \$33 billion to the state's economy. Energy consumption in the winery market is large- over 400 GWh of electricity per year- making the wine market the largest consumer of electricity in California's food industry.

January 20, 1955, and recorded in Volume 466 of Official Records at page 7, Napa County Records ("Easement"). The Easement provides in part that no building or like structure shall be erected or constructed on the premises (within the easement area).

The property is owned by Leny M. Van Winden ("Van Winden") and is leased and operated by Saintsbury as a winery and vineyard. In this transaction Saintsbury will be the representative for the individual property owner, Van Winden, as Saintsbury is constructing the improvement on the Property. The only feasible location for the solar collection system has been determined by Saintsbury to be within PG&E's Easement. The proposed solar collection system is necessary to operate the winery's bottling operation using renewable solar energy. The project design allows for adequate access on both sides of the solar collection system so that PG&E maintenance activities for PG&E's Transmission Line can be performed without hindrance.

Saintsbury is requesting permission from PG&E in the form of an Encroachment Agreement to construct a solar collection system below and adjacent to the Lakeville-Tulcany 230 kV line and within PG&E's easement area. The proposed solar collection system shall consist of a one hundred and five (105) foot by seventy one and six tenths (71.6) foot rectangular solar array mounted on two, ten (10) inch by six (6) inch steel columns, respectively twelve and two tenths (12.2) foot by ten and five tenths (10.5) foot high, and will provide renewable solar energy to the winery's bottling operation. PG&E has determined that the solar collection system will not interfere with PG&E's present use and maintenance of its easement. The use is limited to a solar collection system and will have no impact on PG&E's current service to customers. Since the existing Easement provides in part that no building or like structure shall be erected or constructed on the premises (within the easement area), PG&E seeks to grant the Owners an Encroachment Agreement. The proposed Encroachment Agreement will require Saintsbury to maintain the solar collection system for the term of the Encroachment Agreement, unless PG&E exercises an express unilateral right to terminate the Encroachment Agreement on 90 days advance notice in the event of the solar collection system ever interferes with PG&E's operations in the Easement. Under the terms of the proposed Encroachment Agreement, PG&E reserves the right to commence or resume the use of the easement area on the Property for any and all uses; and in the event that PG&E's operational needs should require removal and/or relocation of the solar collection system from

within the easement area, such removal or relocation will be at the Owners' sole cost and expense.

PG&E is not collecting any use fees associated with granting Saintsbury the right to encroach within the Easement. By consenting to this prohibited construction and use of the Easement, PG&E is supporting participants in PG&E's Self Generation Incentive Program. Placement of the solar collection system within the Easement does not rise to the level of a right that has any realizable economic value to PG&E.

PG&E has provided the following information in this advice letter to meet the eligibility criteria under the advice letter pilot program. Under the California Environmental Quality Act ("CEQA") Checklist, the activity proposed in the transaction will not require environmental review by the CPUC as a lead agency. The proposed transaction will not have an adverse effect on the public interest. In fact, the proposed transaction will serve the public interest because Saintsbury is a participant in PG&E's Self Generation Incentive Program, and will enable Saintsbury to generate renewable solar energy to power its bottling operation while reducing energy demand. Since PG&E is not collecting any fees associated with granting Saintsbury an Encroachment Agreement, the proposed encroachment is well below the \$5 million threshold set forth for fee property and lease equivalents. Finally, the transaction does not involve the transfer or change in ownership of facilities currently used in utility operations.

Also, in accordance with the CEQA Guidelines adopted in rule 2.4 of the Commission's Rules of Practice and Procedure, PG&E contends that the project is exempt from CEQA. (Cal. Code Regs., tit. 14, §§15300, et seq.) Among the classes of categorically exempt projects are "construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure" (Id., § 15303.) PG&E contends the proposed transaction is exempt from CEQA under this categorical exemption.

NOTICE

Notice of Advice Letter 2994-E was made by publication in the Commission's Daily Calendar. PG&E states in 2994-E that a copy of the Advice Letter was mailed and distributed in accordance with Section III, G of General Order 96-A.

PROTESTS

No protests or comments to PG&E Advice Letter 2994-E were filed.

DISCUSSION

We have reviewed PG&E's Advice Letter 2994-E and find that it satisfies the criteria for inclusion in the pilot program specified in Resolution ALJ-186.

We find that the proposed transaction here falls within the categorical exemption provided for in Cal. Code Regs., tit. 14, §15303, which includes the "construction and location of limited numbers of new, small facilities or structures". This provision provides examples of structures that meet this exemption but does not limit the applicability of this exemption to those structures. Accordingly, we conclude that the solar panel here is among the types of structures meeting this exemption.

We find that the proposed transaction will serve, and not harm, the public interest because with our approval of this transaction, Saintsbury will be able to generate renewable solar energy to power its bottling operation while reducing energy demand. Also, since PG&E is not collecting any fees associated with granting Saintsbury an Encroachment Agreement, the proposed encroachment is well below the \$5 million threshold set forth in ALJ 186 for fee property and lease equivalents. Further, the transaction does not involve the transfer or change in ownership of facilities currently used in utility operations.

Additionally, Advice Letter 2994-E satisfies the filing requirements specified in Section III.B.1.a-k of Resolution ALJ-186 and includes all of the information necessary to provide a satisfactory review of PG&E's proposed easement.

For all the above reasons, we find that expedited treatment pursuant to Section III.A.1.b of Resolution ALJ-186 is appropriate for Advice Letter 2994-E and that no reason to deny the approval of Advice Letter 2994-E exists pursuant to Section III.A.2 of Resolution ALJ-186.

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. On February 27, 2007, PG&E filed Advice Letter 2994-E.
2. Protests or comments were due to the Commission on March 29, 2007.
3. No protests or comments were filed.
4. The Saintsbury 40-acre winery and vineyard is located in the southern most part of Napa and Sonoma Valley near Highway 29 and Highway 12 in Napa County ("Property").
5. The proposed solar collection system will be constructed within PG&E's easement area for the purpose of providing renewable solar energy to power Saintsbury bottling operation.³
6. For over a decade, Saintsbury has contributed significant amounts of fruit to winemaking in the Napa region as well as provided bottling for grapes grown in its own vineyards.
7. Currently, Saintsbury produces approximately 60,000 cases of wine annually, which places the winery in a higher energy usage tier.⁴
8. The proposed solar collection system would reduce Saintsbury's annual energy demand from the PG&E electric system by supplementing it with the renewable solar energy generated from the installed solar collection system.
9. PG&E owns, operates and maintains the Transmission Line, a portion of which is located on the Saintsbury Winery and Vineyard located at 1500

³ Saintsbury is a participant in PG&E's SGIP²), which offers financial incentives to PG&E customers who install new, self-generation equipment to meet all or a portion of their electric energy needs at a particular location. The units may be renewable or non-renewable.

⁴ California has over 1100 wineries that produce 500 million gallons of wine per year and contribute about \$33 billion to the state's economy. Energy consumption in the winery market is large- over 400 GWh of electricity per year- making the wine market the largest consumer of electricity in California's food industry.

Los Carneros Avenue, Napa County, California, and identified as APN 047-212-002.

10. PG&E owns an easement for the transmission of electric energy and for all other purposes connected therewith, as set forth in the Easement.
11. The Easement provides in part that no building or like structure shall be erected or constructed on the premises (within the easement area).
12. The property is owned by Van Winden and is leased and operated by Saintsbury as a winery and vineyard.
13. The only feasible location for the solar collection system has been determined by Saintsbury to be within PG&E's Easement.
14. The proposed solar collection system is necessary to operate the winery's bottling operation using renewable solar energy.
15. The project design allows for adequate access on both sides of the solar collection system so that PG&E maintenance activities for PG&E's Transmission Line can be performed without hindrance.
16. Saintsbury is requesting permission from PG&E in the form of an Encroachment Agreement to construct a solar collection system below and adjacent to the Lakeville-Tulcany 230 kV line and within PG&E's easement area.
17. The proposed solar collection system shall consist of a one hundred and five (105) foot by seventy one and six tenths (71.6) foot rectangular solar array mounted on two, ten (10) inch by six (6) inch steel columns, respectively twelve and two tenths (12.2) foot by ten and five tenths (10.5) foot high, and will provide renewable solar energy to the winery's bottling operation.
18. PG&E has determined that the solar collection system will not interfere with PG&E's present use and maintenance of its easement.
19. The use is limited to a solar collection system and will have no impact on PG&E's current service to customers.
20. Since the existing Easement provides in part that no building or like structure shall be erected or constructed on the premises (within the easement area), PG&E seeks to grant the Owners an Encroachment Agreement.
21. The proposed Encroachment Agreement will require Saintsbury to maintain the solar collection system for the term of the Encroachment Agreement, unless PG&E exercises an express unilateral right to terminate the Encroachment Agreement on 90 days advance notice in the event the solar collection system ever interferes with PG&E's operations in the Easement.

22. Under the terms of the proposed Encroachment Agreement, PG&E reserves the right to commence or resume the use of the easement area on the Property for any and all uses; and in the event that PG&E's operational needs should require removal and/or relocation of the solar collection system from within the easement area, such removal or relocation will be at the Owners' sole cost and expense.
23. PG&E is not collecting any use fees associated with granting Saintsbury the right to encroach within the Easement.
24. By consenting to this prohibited construction and use of the Easement, PG&E is supporting participants in PG&E's Self Generation Incentive Program.
25. Placement of the solar collection system within the Easement does not rise to the level of a right that has any realizable economic value to PG&E.
26. The proposed transaction will not have an adverse effect on the public interest.
27. In fact, the proposed transaction will serve the public interest because Saintsbury is a participant in PG&E's Self Generation Incentive Program, and our approval of this transaction will enable Saintsbury to generate renewable solar energy to power its bottling operation while reducing energy demand.
28. Since PG&E is not collecting any fees associated with granting Saintsbury an Encroachment Agreement, the proposed encroachment is well below the \$5 million threshold set forth for fee property and lease equivalents.
29. The transaction does not involve the transfer or change in ownership of facilities currently used in utility operations.
30. In accordance with the CEQA Guidelines adopted in rule 2.4 of the Commission's Rules of Practice and Procedure, PG&E contends that the project is exempt from CEQA under Cal. Code Regs., tit. 14, §§15300, et seq.
31. Among the classes of exempt projects covered by this exemption are the "construction and location of limited numbers of new, small facilities or structures". (Id., § 15303.)
32. The Commission finds that this categorical exemption applies to the proposed transaction here.

THEREFORE IT IS ORDERED THAT:

1. The request of PG&E for to enter into an Encroachment Agreement with Saintsbury permitting Saintsbury to construct a solar collection system within a PG&E easement by Advice Letter 2994-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 May 24, 2007; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

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