

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION NO. E-4225

RESOLUTION

Resolution E-4225. Southern California Edison (SCE). This Executive Director Action Resolution finds that SCE's Advice Letter 2272-E, notifying the Commission of the proposed construction of utility facilities, is exempt from the requirements to obtain a Permit to Construct ("PTC Requirements") pursuant to General Order 131-D ("GO 131-D"), Section III, Subsection B.1.g. ("Exemption g."); and dismisses the protests submitted to the Commission because the facts claimed in the protests do not support a finding that the exception criteria contained in GO 131-D, Subsection B.2.a-c. exists.

By Advice Letter 2272-E. Filed on October 2, 2008.

SUMMARY

This Executive Director Action Resolution finds that SCE's Advice Letter 2272-E, notifying the Commission of the proposed construction of utility facilities, is exempt from the requirements to obtain a Permit to Construct ("PTC Requirements") pursuant to General Order 131-D ("GO 131-D"), Section III, Subsection B.1.g. ("Exemption g."); and dismisses the protests submitted to the Commission because the facts claimed in the protests do not support a finding that the exception criteria contained in GO 131-D, Subsection B.2.a-c. exists. This Resolution is effective immediately.

BACKGROUND

On October 2, 2008, Southern California Edison ("SCE") filed Advice Letter 2272-E; Notice of Proposed Construction Project Pursuant to General Order 131-D, Moorpark-Newbury 66 kV Subtransmission Line Project. SCE proposes to construct the new Moorpark-Newbury 66 kilovolt (kV) subtransmission line to address a base case overload on the Moorpark tap of the existing Moorpark-Newbury-Pharmacy 66kV subtransmission line. The new Moorpark -Newbury 66 kV subtransmission line will be constructed between SCE's Moorpark

Substation, located at the northwest corner of Gabbert Road and Los Angeles Avenue in the City of Moorpark, and SCE's Newbury Substation, located at 1295 Lawrence Drive in the City of Thousand Oaks. The project, which will involve both the construction of new facilities and replacement and reconductor of existing facilities, is approximately 9 miles in length, and will traverse portions of the City of Moorpark, unincorporated areas of Ventura County, and the City of Thousand Oaks, all within existing easements, rights-of-way ("ROW") and SCE fee-owned property.

Specifically, the new Moorpark-Newbury 66kV line will be constructed as follows:

Section 1: Construction of approximately 2,000 feet of underground 66kV line, entirely within Moorpark Substation.

- This section will extend from Position 2 in the Moorpark 66kV bus to a new tubular steel pole (TSP) riser, up to approximately 90 feet in height, in the northeast corner of Moorpark Substation, and will be cabled with 2,000 kcmil (thousand circular mils) copper.

Section 2: Construction of 34 engineered TSPs in SCE's existing Ormond Beach - Moorpark 220kV ROW for approximately 5 miles.

- This portion of the project will extend from the Moorpark Substation east and then south to a point adjacent to SCE's existing 220kV tower M16 T5. From this point, the new line will transition to an existing 66kV ROW as described below.
- The new TSPs, which will be approximately 75-125 feet tall and strung with 954 aluminum conductor, steel reinforced (ACSR), will be installed adjacent to the existing 220 kV towers and the new subtransmission line will have approximately the same span lengths as the existing Ormond Beach-Moorpark 220 kV lines in the ROW.

Section 3: Replacement of 14 existing double-circuit 66 kV lattice steel towers (LSTs) with 14 double-circuit TSPs for approximately 2.5 miles on the existing Moorpark -Newbury-Pharmacy 66 kV subtransmission line.

- As noted above, this section begins where the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line crosses SCE's existing Ormond Beach-Moorpark 220 kV ROW at a point approximately 4,150 feet south of the intersection of Santa Rosa Road and Gerry Road.
- The new double-circuit TSPs, which will be approximately 75-125 feet tall, will carry both the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line and the new Moorpark-Newbury 66 kV line. Both circuits will be strung with 954 ACSR (the existing Moorpark-Newbury-Pharmacy 66 kV line currently is strung with 653.9 ACSR, but will be reconducted as part of this project to avoid conductor swing and rise conflict with the new Moorpark-Newbury 66 kV line).
- Section 4: Replacement of 36 single-circuit wood poles with 36 double-circuit lightweight steel (LWS) poles for approximately 1.2 miles in existing ROW.
- This section begins at a point approximately .3 miles west of the intersection of Conejo Center Drive and Rancho Conejo Blvd and ends at a Newbury Substation.
- This section will involve the transfer of the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line from existing 70-90 foot tall poles to new 75-95 foot tall double-circuit LWS poles carrying both the new Moorpark-Newbury-Pharmacy 66 kV subtransmission line and the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line.

GO 131-D

GO 131-D was adopted by the Commission in Decision D. 94-06-014 and modified by D.95-08-038. Pursuant to GO 131-D, Section III.B.1.g., SCE claims that the proposed facility construction meets the specific conditions that exempt SCE from the PTC Requirements. SCE claims that the proposed facilities will be consistent with following exemption criterion:

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.

Energy Division has confirmed that the proposed facilities will be located entirely within SCE's existing easements, rights-of-way ("ROW") and SCE fee-owned property.

GO 131-D Section III.B.2. contains exception criteria, which if applicable, do not permit exemptions from the PTC Requirements. Exemptions from the PTC Requirements do not apply when any of the conditions specified in CEQA Guidelines § 15300.2 exist:

- a. 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
- b. the cumulative impact of successive projects of the same type in the same plate, over time, is significant; or
- c. there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

A valid protest must state facts demonstrating "that any of the conditions described in Section III.B.2 exist or the utility has incorrectly applied an exemption as defined in Section III..." (GO 131-D, Section XIII).

NOTICE

Notice of AL 2272-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 III-G of General Order 96-B.

PROTESTS

Advice Letter 2272-E was protested.

Within the 20-day protest period specified in GO 131-D, the Commission received approximately 100 form letters from area residents protesting the

proposed construction of the facilities. The Commission also received protests from: Ms. Danalynn Pritz; the Santa Rosa Valley Estates Homeowner's Association; and Paul D. Burns. Additionally, representatives of four local governmental bodies protested: Alan Sozio, Esq. representing the City of Moorpark; the Ventura County Board of Supervisors County; City of Thousand Oaks; and Santa Rosa Valley Municipal Advisory Council.

Due the large number of protests received, the Commission granted SCE an extension of the normal 5 day period, to respond to the protests. On October 31, 2008, SCE responded to the protests.

The protests raise questions about the Project in the following areas: (1) Noticing; (2) the application of Exemption g. to the project; (3) electric and magnetic fields (EMF); (4) safety, including concerns related to wind, earthquake and potential fire; (5) Aesthetics or property values; (6) Impact to sensitive plant and animal species; (7) Project need; (8) Project alternatives; (9) Tree removal; (10) Climate change; (11) Project construction impacts.

In addition, many protestors request an Environmental Impact Report ("EIR") and evidentiary hearings to resolve factual disputes.

SCE has addressed each of the issues raised in the Protests above. SCE claims that the protests fail to demonstrate that the conditions specified in CEQA Guidelines 15300.2 and GO 131-D, B.2.a.-c. , which would require an application for a permit to construct, exist. SCE claims that the grounds for a valid protest under Section XIII of GO 131-D have not been met and, therefore, the protests should be dismissed.

The following Section summarizes the grounds of the protests, SCE's responses to the protests, and states Energy Division's findings with regard to whether the facts alleged in the protests meet the criteria for a valid protest pursuant to GO 131-D, Section XIII.

DISCUSSION OF PROTESTS

Noticing

Several parties allege that inadequate notice was provided for the project

GO131-D Section XI, Subsection B requires that for facilities deemed exempt from the PTC Requirements, notice is to be provided: by direct mail to the planning director of each county or city in which the facilities will be located and the Executive Director of the Energy Commission; advertisement in newspapers in the county or city in which the facilities will be located.

Energy Division finds that SCE complied with the notice requirements of GO 131-D, Section XI and encourages SCE to engage in meaningful and proactive community outreach.

Application of Exemption g.

Protests allege that the proposed facilities do not meet criteria for an exemption from the PTC requirements pursuant to Go 131-D, Section III.B.1.g.

SCE responds that Exemption g applies because the project is to be constructed in existing SCE fee-owned rights-of-way, property and easements (absent conditions specified in CEQA guidelines Section 15300.2)

Energy Division finds that SCE correctly applied Exemption g. because the proposed facilities will be located entirely within SCE's existing ROW.

Application of GO 131-D Section III.B.2 Exception Criteria

Protests allege that the proposed facilities should not be exempted from the PTC requirements because the 131-D Section III.B.2 exception criteria applies.

Protests raised the following facts to support a claim that the exception criteria should apply.

EMF

Many protests allege that the Project will cause increased cumulative EMF exposure.

SCE responded that EMF exposure is not a sufficient basis for a protest citing Commission Decision 96-04-094, which at page 5 states: "Concern about possible EMF exposure resulting from a project is not sufficient basis for finding that an exemption under Section III.B.2a, (b), or (c) exists..."

The action plan established in Commission Decision 93-11-013 adopting various "no-cost and low-cost" measures into the construction of new or upgraded power facilities will be implemented by SCE as part of this project.

SCE will employ the “no-cost and low-cost” measures to minimize possible EMF exposure. Energy Division finds that EMF exposure is not a sufficient basis for qualifying for an exception that would override Exemption g.

Energy Division finds that, because SCE is complying with Commission policy, EMF exposure resulting from the project is not sufficient basis for finding that an exemption under Section III.B.2a-c. exists.

Brush fire and Earthquake Hazard

Protesters claim that the proposed facilities have the potential to result in increased fire hazards due to strong Santa Anna wind events. Protesters also claim that the proposed facilities will expose people to hazards resulting from the toppling of towers during an earthquake, as the project area may traverse the Simi-Santa Rosa Fault zone.

SCE responded that brush fire and earthquake hazard are common in their service territory and that neither circumstance is “unusual”. SCE argues that even if unusual circumstances were found to exist, there is no possibility of a significant impact due to the unusual circumstances since the project site is an existing right-of-way with either 220 kV or 66 kV structures.

Energy Division finds that potential brushfire and seismic concerns do not constitute “unusual circumstances” in SCE’s service territory.

Aesthetics or property values

Protests claim that the construction of additional powerlines will have a significant impact on scenic views and the existing visual character and quality of the sites and surroundings.

SCE responded that according to CEQA aesthetic criteria, the proposed project does not meet the thresholds that indicate significant impact. SCE argues that the project would result in a small incremental aesthetic change, and would not substantially impact the visual quality of the site.

Regarding the proposed project’s impact on property values, SCE claims no systematic measure of property value impact resulting from proximity to electric facility has been established.

Energy Division finds that the incremental nature of the proposed power lines in the established right-of-way would not result in a potentially significant aesthetic impact as defined by CEQA guidelines. Further, Energy Division agrees with SCE that an accepted methodology for assessing the property value impact resulting from the proximity of electrical facilities has yet to be established.

Impact to sensitive plant and animal species

Protesters note that an exception to Exemption g. exists if there is a reasonable possibility that the Project 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. Protesters claim that the Least Bell's vireo and native chaparral will be impacted.

SCE replied that for purposes of claiming that an exception to exemption g. exists for impacts to biological resources under CEQA Guidelines Section 15300.2 there must be a reasonable possibility that the Project 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. SCE points out that none of the protests make this claim. SCE argues that none of the species identified in protests (Least Bell's vireo, coastal California gnatcatcher) meet the Section 15300.2 criteria because the proposed facilities are not within a designated or mapped habitat for these species.

Commission staff discussed the potential impacts to listed species with SCE. SCE disclosed that the extreme south end of the SCE owned ROW is within designated, precisely mapped habitat for a state and federally listed plant, the Lyon's Pentachaeta. In spring of 2008, SCE conducted focused botanical surveys for Lyon's Pentachaeta and Conejo Dudleya, in accordance with U.S. Dept. of Fish and Wildlife protocols. The Spring 2008 focused surveys failed to observe either plant species within the survey area.

Energy Division finds that the conditions specified in CEQA guidelines Section 15300.2, namely subsection (a) do not exist because the project ROW sections with designated, precisely mapped habitat were surveyed and were found to be devoid of the listed plant. Thus, there is not a reasonable possibility that the activity of constructing the facilities would impact on the listed plant.

Project need

Protesters assert that the proposed facilities address no immediate electrical need, but rather possible future need that was assessed during the housing boom and may no longer be relevant in the current economic downturn. Protesters also believe that the programs promoting solar electrical systems may negate the need for the project.

SCE's response to the protests states that the project is needed immediately to address current possible overload conditions during periods of peak customer demand.

Energy Division acknowledges that SCE has a responsibility to maintain reliable electric service for its customers and has no reason to doubt that this project is required to meet reliability needs.

Project alternatives

Protesters assert that SCE failed to consider alternatives to the proposed facilities, including locating the project in an existing subtransmission corridor that runs parallel to the existing 220 kV corridor, or on the west side of the 220 kV corridor rather than the east side.

SCE responded that the line should not be built in the existing 66kV ROW located 1800 feet to the west of the 220 kV ROW because of cost, lack of ROW and reduced reliability. Regarding placement on the facilities on the west side, SCE states that this option would require that the 66 kV line cross under the 220 kV line several times, resulting in engineering, construction, and safety complications. Regarding using the 220 kV facilities to support the new 66 kV circuit, SCE states that the existing 220 kV structures are not designed to accommodate a third circuit.

Energy Division agrees with SCE's assessment that an alternative route is not feasible due to engineering and technical considerations.

Tree removal

Protesters note the presence of a "Heritage Tree" protected by the Ventura County Tree Protection Ordinance.

In SCE's response to protesters, SCE acknowledges that the height and position of the tree would necessitate its removal pursuant to State Vegetation

Management laws and CPUC GO 35. SCE states that they will obtain any applicable ministerial permits from Ventura County prior to the tree's removal.

This Resolution is conditioned on SCE acquiring all required local permits.

Climate change

Protests argue that the project will generate greenhouse gasses that will incrementally contribute to a cumulatively significant global warming impact.

SCE responded that lack of State or local air district criteria for assessing the climate change impact of projects should preclude a determination that the Project would have a significant cumulative impact.

Energy Division finds that incremental contribution to climate change of the proposed facilities does not support the application of the exception criteria.

Project construction impacts

The City of Thousand Oaks is concerned that the new spur roads SCE will need to build will have adverse impacts within protected open space land owned directly by the City or through a JPA, the Conejo Open Space Conservation Agency (COSCA).

SCE reports to have met and conducted site visits with City of Thousand Oaks Community Development Director and the COSCA Executive Director to review these conditions and address any concerns.

SCE must use best management practices ("BMPs") to minimize construction related impacts to the environment. These BMPs include following the accepted U.S. Fish and Wildlife protocols and those of other resource agencies. As a result, none of the conditions needed to "over-ride" the exemption apply.

DISCUSSION

Energy Division has reviewed SCE's Advice Letter 2272-E submitting notice pursuant to General Order 131-D (GO 131-D), Section XI, Subsection B.4 for the Construction of Facilities that are exempt from a Permit to Construct as well as the numerous protest that were submitted. Energy Division has concluded that the proposed facilities meet the criteria for an exemption from PTC Requirements because construction consists of power line facilities or substations to be located

in SCE's existing franchise, road-widening setback easement, or public utility easement.

Staff has also concluded that the protests filed do not contain facts that support a finding that: 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; the cumulative impact of successive projects of the same type in the same place, over time, is significant; or there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Therefore, the protests do not meet the criteria for an exception from Exemption g., which would require SCE to apply for a permit to construct.

This advice filing will not increase any rate or charge, cause the withdrawal of service, or conflict with any other rate schedule or rule.

FINDINGS

1. On October 2, 2008, Southern California Edison (SCE) filed Advice Letter 2272-E; Notice of Proposed Construction Project Pursuant to General Order 131-D, Moorpark-Newbury 66 kV Subtransmission Line Project.
2. The new Moorpark -Newbury 66 kV subtransmission line will be constructed between SCE's Moorpark Substation, located at the northwest corner of Gabbert Road and Los Angeles Avenue in the City of Moorpark, and SCE's Newbury Substation, located at 1295 Lawrence Drive in the City of Thousand Oaks. The project, which will involve both the construction of new facilities and replacement and reconductor of existing facilities, is approximately 9 miles in length, and will traverse portions of the City of Moorpark, unincorporated areas of Ventura County, and the City of Thousand Oaks, all within existing easements, rights-of-way (ROW) and SCE fee-owned property.
3. Southern California Edison Company (SCE) would construct the Moorpark-Newbury 66 kV subtransmission Line Project (Project) within existing SCE easements, fee-owned right of ways, and franchise locations to address a base case overload on the Moorpark tap of the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line.
4. The Energy Division has independently reviewed the advice letter and has deemed that this project qualifies for the following exemption:

- “g. 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.”
5. Energy Division finds that the proposed facilities are exempt from the requirements to obtain a permit to construct (“PTC” Requirements”) because they will be located entirely within SCE’s existing easements, rights-of-way (“ROW”) and SCE fee-owned property, which is consistent with exemption criterion General Order 131-D (GO 131-D), Section III, Subsection B.1.g.
 6. SCE’s Advice Letter AL 2272-E was timely protested by approximately 100 area residents by means of form letter; Ms. Danalynn Pritz; the Santa Rosa Valley Estates Homeowner’s Association; and Paul D. Burns. Additionally, representatives of three local governmental bodies protested: Alan Sozio, Esq. representing the City of Moorpark; Board of Supervisors County of Ventura; City of Thousand Oaks; and Santa Rosa Valley Municipal Advisory Council.
 7. The protests raise questions about the Project in the following areas: (1) Noticing; Application of Exemption g. to the project; (2) electric and magnetic fields (EMF); (3) safety, including concerns related to wind, earthquake and potential fire; (4) Aesthetics or property values; (5) Impact to sensitive plant and animal species; (6) Project need; (7) Project alternatives; (8) Tree removal; (9) Climate change; (10) Project construction impacts.
 8. Energy Division finds that SCE complied with the notice requirements of GO 131-D for the reasons stated above.
 9. Because SCE will employ the “no-cost and low-cost” measures to minimize possible EMF exposure, Energy Division finds that EMF exposure is not a sufficient basis for qualifying for an exception that would override Exemption g.
 10. For the reasons stated above, Energy Division finds that potential brushfire and seismic concerns do not constitute “unusual circumstances” in SCE’s service territory.
 11. Energy Division finds that the incremental nature of the proposed power lines in the established right-of-way would not result in a potentially significant aesthetic impact as defined by CEQA guidelines.
 12. Energy Division finds that the conditions specified in CEQA guidelines Section 15300.2, namely subsection (a) do not exist because the project ROW sections with designated, precisely mapped habitat were surveyed and were found to be devoid of the listed plant. Thus, there is not a reasonable

possibility that the activity of constructing the facilities would impact on the listed plant.

13. Energy Division accepts SCE's assertion that the facilities are being proposed to maintain reliable electric service for SCE's customers and the protests do not raise facts supporting a conclusion that this project is not required to meet reliability needs.
14. Energy Division adopts SCE's assessment that an alternative route is not feasible due to engineering and technical considerations described above.
15. This Resolution does not relieve SCE from obtaining acquiring all required local, state and federal entitlements.
16. Energy Division finds that incremental contribution to climate change of the proposed facilities does not support the application of the exception criteria.
17. This advice filing will not increase any rate or charge, cause the withdrawal of service, or conflict with any other rate schedule or rule.

IT IS HEREBY RESOLVED

1. The findings of Energy Division Staff are hereby adopted by the Executive Director.
2. SCE's Advice Letter 2272-E, notifying the Commission of the proposed construction of utility facilities, is exempt from a Permit to Construct pursuant to General Order 131-D (GO 131-D), Section III, Subsection B.1.g.
3. The protests are dismissed because the facts claimed in the protests do not meet the exception criteria contained in GO 131-D, B.2.a-c.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by Executive Director Action Resolution on February 24, 2009.

/s/ Paul Clanon
Paul Clanon
Executive Director