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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In The Matter of the Application of
San Diego Gas & Electric Company
(U902E) for a Permit to Construct
Electrical Facilities: Cleveland National
Forest Power Line Replacement Projects.

Application 12-10-009
(Filed October 17, 2012)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

1. Summary

Pursuant to Rule 7.3(a) of the Commission's Rules of Practice and Procedure (Rules), this ruling follows a prehearing conference (PHC) held on February 5, 2014, and addresses both scope and schedule for this application.

2. Background

2.1. Procedural History

San Diego Gas & Electric Company (SDG&E) filed this application and supporting documents, including a preliminary plan of development, on October 17, 2012. A plan of development, which SDG&E prepared to satisfy federal requirements, is a reasonable substitute for the proponent's environmental assessment that the Commission requires as part of an application, like this one, for a permit to construct (PTC). The Division of Ratepayer Advocates, now known as the Office of Ratepayer Advocates (ORA), timely filed a protest on November 26, 2012 and the SDG&E filed a reply on December 6, 2012.

On June 26, 2013, as instructed by the Commission, SDG&E filed an amendment to the application, which includes the revised plan of development prepared at the direction of the Forest Service. Protect Our Communities Foundation (POC) timely filed a protest on July 26, 2013 and SDG&E filed a reply on August 8, 2013. At the PHC, the Administrative Law Judge (ALJ) granted the oral motions for party status by Utility Consumers Action Network (UCAN) and Cleveland National Forest Foundation (CNF Foundation).

2.2. Status of Environmental Review

SDG&E seeks authority within the independent jurisdiction of several state and federal agencies and subject to environmental review under both state and federal laws. The Commission and the United States Forest Service (Forest Service) have independent authority to approve the project and are the joint lead agencies for environmental review. The lead agencies have executed a memorandum of understanding to undertake joint environmental review and jointly prepare the Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) required, respectively, by the California Environmental Quality Act (CEQA)¹ and the National Environmental Policy Act (NEPA).

The federal Bureau of Indian Affairs (BIA), the federal Bureau of Land Management (BLM), and California State Parks (CSP) have independent authority to approve segments of the project within their areas of jurisdiction. CSP is a responsible agency under CEQA; BIA and BLM are federal cooperating agencies under NEPA.

¹ CEQA is codified at Public Res. Code §21000, *et seq.*

As noted previously, the Forest Service, which has jurisdiction over occupancy and use authorizations on the portion of the project within the Cleveland National Forest (CNF), required certain modifications to the plan of development. SDG&E completed the revised plan of development in April 2013 and subsequently filed it in June 2013, together with the amendment to application. On August 7, 2013, the Commission's Energy Division deemed the application complete.

The initial 45-day public scoping period (September 23-November 7, 2013) included public scoping meetings held on October 22, 2013 in Julian and on October 23, 2013 in Alpine. Subsequently, the Commission and the Forest Service determined to hold a supplemental scoping session, from January 21 to March 7, 2014, with a public meeting held February 19, 2014 in Alpine. The current schedule for environmental review contemplates release of a draft EIR/EIS in July 2014.

3. Project Description; Authority Sought

SDG&E proposes to combine over 70 previously issued use permits for SDG&E electric facilities and certain ancillary and appurtenant facilities within the CNF into a single Master Special Use Permit (MSUP). The Forest Service holds authority to issue the MSUP. SDG&E also proposes to replace or rebuild five 69 kilovolt (kV) power lines and six 12kV distribution lines that are subject to the existing permits and would be subject to the MSUP. These lines are located both within and outside the CNF and the various agencies involved in the review process have authority over different aspects or segments of the proposed construction.

SDG&E seeks a PTC from the Commission for reconstruction of the following five 69kV power lines (TL):

- TL625 – approximately 22.5 miles, total (about 6.5 miles located within the CNF boundary and about 16 miles outside it); runs from Loveland Substation east to Barrett Tap, from Barrett Tap east to Descanso Substation, and from Barrett Tap south to Barrett Substation.
- TL626 – approximately 18.8 miles, total (about 8.2 miles located within the CNF boundary and about 10.6 miles outside it); runs from Santa Ysabel Substation south to Descanso Substation.²
- TL629 – approximately 29.8 miles, total (about 9.6 miles located within the CNF boundary and about 20.2 miles located outside it); runs from Descanso Substation east to Glencliff Substation, from Glencliff Substation southeast to Cameron Tap, from Cameron Tap south to Cameron Substation, and from Cameron Tap east to Crestwood Substation.
- TL682 – approximately 20.2 miles, total (about 2.5 miles located within the CNF boundary and about 17.7 miles outside it); runs from Rincon Substation east to Warners Substation.

² One segment of TL626 within the CNF crosses the Inventoried Roadless Area in the vicinity of a proposed recommended Wilderness Land Use Zone. The Forest Service wants to relocate that segment and has required the development of potential, alternative routings. As directed by the Forest Service, the revised plan of development, which is part of SDG&E's Amendment to Application, includes a 3,000-foot preliminary study corridor for consideration of potential alternative routes for TL626.

Another reason for the revised plan of development (and Amendment to Application) is that elsewhere in the CNF, the Forest Service wants to relocate a section of C157 (a 12kV distribution line) out of the Hauser Wilderness and into the area between the Hauser and Pine Creek Wilderness areas. Removal/relocation of that line also will require restoration of the affected area consistent with wilderness objectives.

- TL6923 – approximately 13.4 miles, total (about 1.7 miles located within the CNF boundary and about 11.7 miles outside it); runs from Barrett Substation east to Cameron Substation.

SDG&E lists four objectives of the 69kV power line reconstruction: increasing fire safety (“fire hardening”) and service reliability; obtaining the Commission approvals the Forest Service will require before issuing an MSUP; ensuring the continued safe, reliable and cost-effective operations of electrical facilities through the CNF; and minimizing potential environmental impacts by locating facilities within previously disturbed areas, where feasible.

Fire hardening largely consists of replacing existing wood poles with weathered-steel poles, typically on a one-to-one ratio. Approximately 1,384 69kV wooden poles have been identified for replacement. Except where sensitive resources require a different siting, SDG&E proposes to place steel poles in line with conductors and within eight feet of existing wood poles. In addition, SDG&E proposes to underground approximately 700 feet of TL629E and to remove the corresponding poles at that location.

SDG&E proposes to configure each, new steel pole to carry:

- Three 69kV 636 (0.977-inch diameter) kcmil aluminum-clad steel-supported conductors on single-circuit segments and up to six such conductors on double-circuit segments;
- Two to seven of either 12kV 636 kcmil or 336.4 kcmil (0.721-inch diameter) aluminum-clad steel-reinforced conductors or, 12kV No. 2 5/2 (0.330-inch diameter) or 12kV No. 2 3/4 (0.386-inch diameter) Alumoweld aluminum conductors;
- One level of communication circuits (0.685-inch diameter).³

³ Excerpted from SDG&E Application at 6.

In addition, SDG&E proposes to design three of the 69kV power lines (TL629C, TL629D, and TL629E) to carry one optical ground wire (0.646-inch diameter).

The construction project also will include maintenance of approximately 31 miles of existing access roads and ancillary facilities required to operate and maintain the five 69kV power lines.

Appendix I to SDG&E's application includes an estimate of the cost of each of the five 69kV reconstruction projects, based on preliminary engineering. These estimates total approximately \$418.5 million, with an estimating error of +/- 5%.

4. Party Perspectives on Scope of Review and Need for Hearings

ORA, POC, UCAN and CNF Foundation all seek hearings on the need for and/or reasonableness of the cost of the 69kV reconstruction projects. Their interests and stated concerns overlap to a large degree.

ORA's protest argues that the estimated costs of the reconstruction project will increase SDG&E ratepayers' rates by 1% to 2% over current rates and that the utility "fails to state specifically what fire threats the existing 69kV power lines and 12kV distribution line and related facilities pose in the CNF..." (ORA Protest at 5.) The protest also argues that SDG&E "does not specifically and factually state the nature of the electric transmission and distribution reliability problems that necessitate the CNF Projects." (*Id.* at 6.) ORA contends that unspecified but less costly options exist and should be pursued and that "the \$418.5 million costs of the CNF Projects rank higher than the estimated cost for over 95% of the projects that the CAISO deems necessary to improve reliability and efficiency." (*Id.* at 7.) At the PHC, UCAN indicated that it shared many of ORA's concerns and sought hearings on the rate impact for SDG&E's ratepayers.

POC's protest argues that "the project actually represents a significant upgrade in the potential capacity, cost, and environmental impact of the lines ..." (POC Protest at 3.) At the PHC, POC specifically questioned whether the lines were being rebuilt to operate in the future at 230kV, based on the increased amperage capability of the conductor that SDG&E proposes to install, and thus, at a level above the 200kV cap that General Order (GO) 131-D requires for PTC eligibility. Above 200kV, utilities must file an application for a certificate of public convenience and necessity (CPCN), which does require extensive showings on need and the reasonableness of costs. POC also queried whether this alleged over building was being pursued to minimize the future intertie costs for potential project developers, who must bear the costs of many of the modifications necessary for a project to interconnect with a utility, by allocating to ratepayers, now, expenditures for power line modifications that would enable the line to carry higher power flows at a later date. At the PHC, CNF Foundation raised similar concerns about growth-inducing capacity increases as well as concerns about degradation of environmentally sensitive habitat.

SDG&E's replies to ORA and POC, and its responses to all parties at the PHC, focus on Decision (D.) 94-06-014, which the Commission issued two decades ago. D.94-06-014 established a streamlined process for review of PTC applications, as compared to CPCN applications, so that utilities could serve their customers in a timely and efficient manner. The Commission determined that the CPCN process was ill-suited to construction of under-200kV power lines and substations and stated:

The process we adopt for lines between 50kV and 200kV differs from the review that results in the issuance of a CPCN for lines over 200kV. The process will result in a "permit to construct" and our review focuses solely on environmental

concerns, unlike the CPCN process which considers the need for and economic cost of a proposed facility.⁴

SDG&E structured this application in reliance on requirements of D.94-06-014 and reiterated these points at the PHC. In response to the ALJ's questions, SDG&E also affirmed that it had included project cost estimates in Appendix I to its application and, regarding need, had included a general discussion of purpose and objectives in its plan of development. Regarding capacity, SDG&E stated that it was not seeking authority to rebuild the power lines to operate above 69kV and expressly recognized that operation at 230kV would require Commission authority. Moreover, SDG&E stated that from a practical standpoint, the total system would have to be redesigned to withstand current flows at those higher levels.

5. Scope of Issues

5.1. Requirements for a PTC

The Commission's General Order (GO) 131-D, Section I, defines an electric "power line" as one designed to operate between 50 and 200kV. Section III.B of GO 131-D requires utilities to first obtain Commission authorization, in the form of a PTC, before beginning construction of a power line.

POC is correct that this section applies to "power line facilities or substations which are designed for immediate or eventual operation" within the specified voltage range. (GO 131-D, III.B.) However, POC is not persuasive that the details of SDG&E's planned retrofit show an intention to operate at higher

⁴ *Re: Rules, Procedures and Practices Applicable to Transmission Lines Not Exceeding 200 Kilovolts*, D.94-06-014, (1994) 55CPUC2d87, 93 [adopts GO 131-D to establish a PTC review process].

power flows in the future. If POC contends that the project design or certain proposed components are unnecessary to accomplish appropriate fire-hardening and reliability objectives, POC should raise these concerns in the context of development of the EIR, particularly the definition of project objectives and review of growth inducement.⁵

No party has shown why this application should not be reviewed under the PTC provisions established by D.94-06-014. Under GO 131-D, Section IX.B.1.f, PTC applications for power lines need not include a detailed analysis of purpose and necessity, a detailed estimate of cost and economic analysis, a detailed schedule, or a detailed description of construction methods (beyond that required for compliance with CEQA).

PTC applications must, however:

- 1) include a description of the proposed facilities and related costs, a map, reasons the route was selected, positions of the government agencies having undertaken review of the project, and a PEA. (Section IX.B.1);
- 2) show substantive and procedural compliance with CEQA as it pertains to the proposed project, including all public notice provisions (Section IX.B.2-5); and
- 3) describe the measures to be taken or proposed by the utility to reduce the potential for exposure to electric and magnetic fields (EMFs) generated by the proposed project (Section X).

SDG&E's application, amendment and plan of development, together with revisions to it, contain detailed descriptions of the proposed project, and as noted in Section 2.2 of this ruling, the PEA-equivalent plan of development has been

⁵ The Commission's recently-revised wind loading standards for GO-95 factor into these assessments. *See* D.14-02-015.

deemed complete. The environmental review required by CEQA and NEPA is underway.

CEQA, which governs the Commission's environmental review, is the state environmental law that requires the lead agency to conduct a review to identify environmental impacts of the project and ways to avoid or reduce environmental damage. The lead agency must consider this review when determining whether to approve the project or any project alternative. CEQA precludes a lead agency from approving a proposed project or project alternative unless the agency requires the project proponent to eliminate or substantially lessen, where feasible, all significant effects on the environment; the agency must determine that any unavoidable remaining significant effects are acceptable due to overriding considerations.

A joint EIR/EIS is an informational document that informs the permitting agencies, and the public in general, of the environmental impacts of the proposed project and any project alternatives; designs a recommended mitigation program to reduce any potentially significant impacts; and identifies, from an environmental perspective, the preferred alternative.

I note that the plan of development, as revised, identifies potentially significant impacts (*see* CEQA Guidelines § 15382) in a number of resource areas: air quality; biological resources; cultural resources; fire hazards; hydrology; noise; transportation and traffic; visual resources; and wilderness and recreation. SDG&E concludes: that all impacts from construction can be fully mitigated with implementation of existing SDG&E practices and protocols (such as SDG&E's Natural Community Conservation Plan) and other, applicant proposed measures; that operation and maintenance of the reconstructed power lines will create no new impacts; and, because the reconstructed lines will not increase

system capacity or open new areas to development, that no growth inducing impacts will result. Formal scoping and independent environmental review will be determinative of these issues.

Before acting on SDG&E's request, the Commission also must consider EMF impacts. D.06-01-042, which establishes policy governing EMF mitigation using low-cost and no-cost measures, governs compliance with this aspect of GO 131-D. SDG&E has filed, as Appendix F to its application, a Magnetic Field Management Plan to address project-related EMFs.

5.2. Issues to Be Determined; Need for Evidentiary Hearing

The ultimate issue before the Commission is whether the Commission should issue a PTC for SDG&E to construct the proposed project. To decide this ultimate issue in accordance with the GO 131-D, the Commission must determine the following issues:

1. Will the proposed project create significant adverse environmental impacts?
2. Are there potentially feasible mitigation measures or project alternatives that will avoid or lessen the significant adverse environmental impacts?
3. As between the proposed project and identified project alternatives, which is environmentally superior?
4. Are the mitigation measures or project alternatives infeasible?⁶
5. To the extent that the proposed project and/or project alternatives result in significant and unavoidable adverse environmental impacts, are there overriding considerations

⁶ See, for example, CEQA Guidelines § 15091(a)(3).

that nevertheless merit Commission approval of the proposed project or a project alternative?⁷

6. Was the EIR completed in compliance with CEQA, did the Commission review and consider the document prior to approving the project or project alternative, and does the document reflect the Commission's independent judgment?⁸
7. Is the proposed project or project alternative designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?

As discussed below, at this time there is no apparent need for hearings on any of these issues; the need for hearing should be reassessed after release of the draft EIR, as further discussed below. If any evidentiary deficit arises, SDG&E will be required to supplement its showing.

Issue nos. 1, 2 and 3: These issues are properly addressed in the course of the CEQA environmental review process and preparation of the EIR. Upon completion of joint EIR/EIS, the assigned ALJ will receive in evidence, as reference exhibits, both the draft and final versions. No evidentiary hearings or further evidence is needed on these issues.

Issue nos. 4 and 5: Factual issues requiring further record development could arise once the draft EIR has been released. If, for example, the Commission must make specific findings on feasibility or issue a statement of overriding considerations and the ALJ or I determine that the record is insufficient, supplementation of the record in a timely and legally sufficient manner can be

⁷ See, for example, CEQA Guidelines § 15093.

⁸ See, for example, CEQA Guidelines § 15090.

accomplished by requiring a further showing from SDG&E. Such a showing necessarily would address the specific economic, legal, social, technological or other considerations that render any project alternatives or mitigation measures infeasible⁹ or the specific economic, legal, social, technological, or other benefits of the project that outweigh the adverse environmental impacts.¹⁰ Such a showing *should not* duplicate matters that will be assessed in the EIR (e.g., issue nos. 1, 2, 3, and 6.)

Issue no. 6: The Commission will review the EIR to determine whether it was completed in compliance with CEQA, whether it reflects the Commission's independent judgment, and whether to approve the proposed project or project alternative. No evidentiary hearings or further evidence will be needed on this issue.

Issue no. 7: As noted above, SDG&E has filed, as Appendix F to its application, a Magnetic Field Management Plan to address project-related EMFs. If the ALJ or I determine that the record on EMFs effects and mitigation is insufficient, SDG&E will be directed to supplement its showing.¹¹

6. Schedule

The schedule below is based upon review of the protests and replies, discussion at the PHC on February 5, 2014 and advice from the Energy Division on the anticipated progress of environmental review.

⁹ See, for example, CEQA Guidelines § 15093.

¹⁰ See, for example, CEQA Guidelines § 15091.

¹¹ The issue of the sufficiency of the Commission's adopted EMF policies is beyond the scope of the proceeding.

Date	Event
July 25, 2014	Draft EIR/EIS issued for public comment.
Date to be determined (within approximately 30 days of issuance of draft EIR/EIS.)	2nd PHC to discuss need for hearing (within scope identified in this ruling.)
December 12, 2014	Final EIR/EIS released.
Within 90 days after issuance of final EIR/EIS.	Proposed Decision filed.
1 st Commission meeting 30 days after Proposed Decision filed (unless Proposed Decision qualifies for reduction or waiver of review under Rule 14.6 of Commission's Rules.)	Commission may act at this meeting or may hold matter to a subsequent meeting.

This schedule will apply, unless revised by a subsequent scoping memo or by a ruling of the assigned ALJ. In any event, I anticipate that this proceeding will conclude within 18 months of the issuance of this scoping memo, in accordance with Pub. Util. Code § 1701.5.

7. Assignment of Presiding Officer

ALJ Jean Vieth will be the Presiding Officer.

8. Categorization

Resolution ALJ 176-3303 categorizes this proceeding as ratesetting and preliminarily determines that hearings will be necessary. Both preliminary determinations should be affirmed and the need for hearing will be reassessed after release of the EIR/EIS.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is set forth herein.
3. The Presiding Officer is Administrative Law Judge Jean Vieth.

4. The preliminary determinations that the category of this application is ratesetting and that hearings may be required are affirmed; the need for hearing will be reassessed after release of the Environmental Impact Report/Environmental Impact Statement.

Dated March 17, 2014, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner