



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED

07/12/21
04:59 PM

Order Instituting Investigation into implementation of Assembly Bill 970 regarding the identification of electric transmission and distribution constraints, actions to resolve those constraints, and related matters affecting the reliability of electric supply.

Investigation 00-11-001
(Filed November 2, 2000)

**OPENING COMMENTS OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
ON PROPOSED DECISION DENYING SAN DIEGO GAS & ELECTRIC COMPANY
EXEMPTION FROM REPORTING REQUIREMENTS OF DECISION 06-09-003**

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Dated: July 12, 2021

SUBJECT INDEX

Page

Subject Index i

Table of Authoritiesii

I. THE PROPOSED DECISION CORRECTLY DENIES SDG&E’S
REQUESTED EXEMPTION FROM THE AB 970 REPORTING
REQUIREMENTS, BUT REQUIRES MODIFICATION TO
ENSURE TRANSPARENCY AND PUBLIC ACCESS TO
COMPLETE TRANSMISSION AND DISTRIBUTION DATA
IN COMPLIANCE WITH AB 9701

II. THE PROPOSED DECISION ERRS BY CONCLUDING THAT
ADDRESSING OR REQUIRING AB 970 COMPLIANCE BY THE
RESPONDENT UTILITIES IS “BEYOND THE SCOPE OF THIS
PROCEEDING”5

III. CONCLUSION.....7

APPENDIX A: Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs

TABLE OF AUTHORITIES

Page

CPUC DECISIONS

Decision (D.) 15-08-0067
D.06-09-0031, 2, 3
D.01-03-0772

CALIFORNIA PUBLIC UTILITIES CODE

PU Code Section 379.52, 5
PU Code Section 17087

COMMISSION RULES OF PRACTICE AND PROCEDURE

Rule 14.31

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EXEMPTION FROM REPORTING REQUIREMENTS OF DECISION 06-09-003**

The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Opening Comments on the Proposed Decision Denying San Diego Gas & Electric Company (SDG&E) Exemption from Reporting Requirements of Decision (D.) 06-09-003, which was mailed in Order Instituting Investigation (I.) 00-11-001 (AB 970) on June 22, 2021 (Proposed Decision). These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Commission's Covid-19 Temporary Filing and Service Protocol, and the instructions accompanying the Proposed Decision.

I.

**THE PROPOSED DECISION CORRECTLY DENIES SDG&E'S
REQUESTED EXEMPTION FROM THE AB 970 REPORTING
REQUIREMENTS, BUT REQUIRES MODIFICATION TO ENSURE
TRANSPARENCY AND PUBLIC ACCESS TO COMPLETE TRANSMISSION
AND DISTRIBUTION DATA IN COMPLIANCE WITH AB 970.**

As established by CEERT in its Response in Opposition to SDG&E's Petition for Modification at issue in the Proposed Decision, by D.06-09-003, the Commission imposed quarterly transmission and distribution reporting requirements quarterly transmission and distribution reporting pursuant to Assembly Bill (AB) 970 (Stats. 2000; ch. 329). Specifically,

AB 970 enacted the statutory mandate that required, and *continues to require*, that the Commission “identify and undertake those actions necessary to reduce or remove constraints on the state’s existing electrical transmission and distribution system, including, but not limited to, reconductoring of transmission lines, the addition of capacitors to increase voltage, the reinforcement of existing transmission capacity, and the installation of new transformer banks.”¹ To “comply” with that statute, the Commission required the utilities, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), to report specified information on the status of transmission projects and generation interconnection projects first monthly,² then quarterly,³ with broad service and public accessibility to that information for all stakeholders (AB 970 Reports). The AB 970 Reports were intended to, and have continuously provided, transparent information on the status of these utilities’ transmission projects critical to the delivery of electric generation in this State and, as concluded by the Commission, are “require[d] to accomplish its oversight responsibilities.”⁴ By continually requiring service of the AB 970 Reports in this proceeding, these reports have also kept stakeholders informed of that status.⁵

Nevertheless, PG&E, SCE, and SDG&E have sought to be relieved of this reporting obligation, beginning with a motion that was denied in D.06-09-003 and since repeated in a series of petitions for modification to be exempted from the AB 970 Reports that have been granted, first, for PG&E in Decision (D.) 20-11-027 and, second, for Southern California Edison Company (SCE) in D. 21-03-010. SDG&E has been the late comer in making this request, but its rationale is not different. That is, all three utilities have claimed that processes developed by

¹ Public Utilities Code Section 379.5 (a)(1) (originally, enacted as Section 399.15(a)(1)).

² D.01-03-077, at pp. 7-8.

³ D.06-09-003, at pp. 3, 7-8.

⁴ *Id.*, at p. 3.

⁵ *Id.*, at p. 7.

each in their separate transmission owner transmission owner rate cases before the Federal Energy Regulatory Commission (FERC) are an adequate and appropriate replacement for the AB 970 Reports.

In its Response, CEERT, supported by an accompanying declaration, has disputed this claim, not only as to the information provided, but also public accessibility to data critical for affected stakeholders who are based on California, are not involved in the FERC transmission owner rate cases, and may not be eligible to sign a non-disclosure agreement to receive such information regarding the status of critical transmission projects in this State. These circumstances apply to all three utilities' (PG&E, SCE, and SDG&E) FERC settlement processes, but it is now, with the Proposed Decision, that only SDG&E has been singled out as failing to "require all of the information that is required by D.06-09-003" through its FERC transmission rate case settlement.⁶

CEERT does not dispute the Public Advocates Office's (CalAdvocates') claim that SDG&E's FERC Settlement has reduced their reported transmission information from "11 different project data fields" in its AB 970 Report to now "only four different project data fields" and will only report that information "annually rather than quarterly as required by D.06-09-003."⁷ Clearly, those deficiencies, as cited by the Proposed Decision, justify the Proposed Decision's denial of SDG&E's requested exemption from the AB 970 Reports.

However, by failing to deny the petition with prejudice, there is nothing to prevent SDG&E from renewing its exemption request simply by adding the project data fields, but without curing the other critical deficiencies created by the exemption that SDG&E seeks and PG&E and SCE have been granted. Namely, in the absence of the AB 970 Reports, none of

⁶ Proposed Decision, at p. 3.

⁷ Proposed Decision, at p. 3-4.

these utilities' substituted FERC settlement processes, again, even with the addition of the "data fields" for SDG&E, provide the same level of public disclosure and accessibility that were part of the transmission reports authorized by the Commission pursuant to AB 970, of which those legal obligations remain the same today. Thus, as CEERT established in its Response in opposition to SDG&E's petition for modification, California stakeholders do not have transparent and direct access to the same information once provided by the AB 970 reports due to confidentiality provisions applied to the FERC-settlement reports and face a daunting, if not impossible, task of drilling through reams of unrelated information to gain any publicly available data about the status of California transmission projects transmission network upgrade generator interconnection/ deliverability projects that are the subject of the AB 970 Reports.⁸

This critical shortcoming in the FERC settlement processes, which was clearly raised by CEERT's Response,⁹ must be, but was not addressed by the Proposed Decision, and, as a result, these deficiencies, unlike the data fields, has not been identified by the Proposed Decision, and SDG&E will be under no obligation to cure that failure if it renews its exemption request nor will PG&E or SCE given their current "exemptions." As a result, the Proposed Decision must be modified to ensure that the same data that was provided in the AB 970 Reports must still be made publicly available to *California* stakeholders, who are not interested in adjudication of a FERC rate case, but need to be fully informed of the status and progress of utility transmission projects, many of which are and will be critical to ensuring increased delivery of clean, renewable resources, especially to meet the goals of SB 100.

Further, just like the additionally required data fields identified by the Proposed Decision, SDG&E should also be required to provide lower voltage transmission and distribution project

⁸ CEERT Response to SDG&E PFM (3-26-2021), at pp. 3-8.

⁹ *Id.*

information developed through its FERC jurisdictional Wholesale Distribution Access Tariff (WDAT). PU Code Section 379.5 (a)(1) cited above clearly applies to both the high voltage grid under California Independent System Operator (CAISO) control and the lower voltage sub-transmission/distribution grid that remains under IOU control, but is also FERC regulated through the WDAT tariffs. The growing trend of a significant fraction of new generation resources that are both smaller and more distributed being interconnected to the wholesale market at these lower voltages must be recognized in the public reporting requirements flowing from AB 970. The interaction between lower voltage upgrade projects in the WDAT tariffs and high voltage transmission upgrades that flow from the CAISO FERC tariff is significant and can no longer be ignored.

In these circumstances, to comply with Section 379.5(a)(1), the same public reporting requirements that have been, and should continue to be part of required AB 970 reporting, need to be applied to WDAT generator interconnection projects as has been traditionally applied to CAISO Transmission Planning Process (TPP) projects. Further, where implementation of AB 970 is precisely the purpose and scope of this proceeding, all three respondent utilities should be required to provide this information, which the Commission can certainly do in this proceeding as discussed further below.

II.
THE PROPOSED DECISION ERRS BY CONCLUDING THAT
ADDRESSING OR REQUIRING AB 970 COMPLIANCE BY THE
RESPONDENT UTILITIES IS “BEYOND THE SCOPE OF THIS PROCEEDING.”

In its Response to SDG&E’s Petition, CEERT also established, with supporting declaration, how access to critical and once-public transmission information provided by the AB 970 Reports is now inappropriately limited, non-transparent, or not publicly available through PG&E’s and SCE’s FERC settlement processes, which were used as the basis for the

Commission granting both utilities' exemptions from the AB 970 Reports in *this* proceeding.¹⁰

In both of their Responses to SDG&E's PFM, CalAdvocates and CEERT requested relief to cure the shortcomings in transmission reporting of all three utilities related to the FERC settlement process, with CalAdvocates requesting a rulemaking to review the AB 970 reporting requirements and CEERT asking that PG&E and SCE, similar to SDG&E, not be exempted from the AB 970 Reports.

The Proposed Decision's answers to both requests is the same – these “matter[s]” are “beyond the scope of this proceeding at this juncture.”¹¹ Of course, this statement is simply *not* the case. This OII *is and remains* the only forum in which the Commission has developed and required transmission reporting pursuant to AB 970. Clearly, the facts laid out by CalAdvocates and CEERT provide clear notice to the Commission that action must be taken now to ensure that the Commission is continuing to “comply” with that law by requiring that the same level of transparent, publicly available transmission information reporting is being maintained by all three respondent utilities consistent with AB 970.

Further, now that the Commission has notice of the failings in the FERC settlement processes and their lack of equivalence with the authorized AB 970 Reports, it is *not* necessary or appropriate, as the Proposed Decision concludes, to require a non-utility third party to go to the time or expense of filing a Petition for Modification for the decisions issued in this proceeding granting PG&E and SCE AB 970 Report exemptions on the same facts and premise as SDG&E's exemption petition. Rather, pursuant to statute and Commission precedent, the

¹⁰ CEERT Response to SDG&E PFM (3-26-2021), at pp. 6-8.

¹¹ Proposed Decision, at pp. 4 and 5.

Commission has the authority to do so itself “on its own motion” without the need to rely on or require any petition for modification by a party to the proceeding.¹²

Clearly, in this case, where the Commission is on notice of the deficiencies of the FERC settlement processes in terms of the public access and data provided by the AB 970 Reports, including the need for WDAT information, the Commission should “on its own motion” immediately commence the process of re-examining the information required to be reported by all three respondent utilities to this OII to ensure that both this Commission and the utilities fulfill their obligations pursuant to AB 970. It is also not necessary, as suggested by PAO, to wait until PG&E’s, SCE’s or SDG&E’s “reporting requirements under their FERC tariffs expire,”¹³ where the deficiencies of that reporting exist now and must be addressed promptly to ensure that needed information on transmission project development, which is necessary to meet State clean energy goals, but is lagging, is transparently and broadly available.

III. CONCLUSION

CEERT supports the Proposed Decision’s denial of an AB 970 reporting exemption for SDG&E, but urges the Commission to modify the Proposed Decision as recommended above to ensure public accessibility, transparency, and completeness in any report claimed to comply with AB 970, including WDAT information. Those recommendations are further supported by Appendix A (Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs) hereto.

¹² PU Code Section 1708; D.15-08-006, at p. 2.

¹³ Proposed Decision, at p. 4.

July 12, 2021

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FOR: CENTER FOR ENERGY
EFFICIENCY AND RENEWABLE
TECHNOLOGIES

APPENDIX A
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDERING PARAGRAPHS FOR THE PROPOSED DECISION

The Center for Energy Efficiency and Renewable Technologies (CEERT) proposes the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Decision issued in I.00-11-001 (AB 970) on June 22, 2021 (Proposed Decision).

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as “**NEW**” in **bold underscored** capital letters.

PROPOSED FINDINGS OF FACT

5. [6] The incremental reporting on transmission projects beyond those subject to the CAISO transmission planning process and/or Commission siting review is **not** beyond the scope of AB 970.

PROPOSED CONCLUSIONS OF LAW

3. [6] ~~This proceeding should be closed.~~ The Commission may, on its own motion, take action in this proceeding to address the status of compliance with PU Code Section 379.5(a)(1) by San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company.

NEW CONCLUSION OF LAW. In further compliance with PU Code Section 379.5(a)(1), the public reporting requirements contained in the AB 970 Reports should include lower voltage sub-transmission/distribution projects undertaken for the purpose of generator interconnection that fall under the Wholesale Distribution Access Tariffs of San

Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company.

PROPOSED ORDERING PARAGRAPHS

2. [7] Investigation 00-11-001 **remains open ~~is closed~~ to facilitate further direction by the Commission to San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company, consistent with the findings and conclusions reached in this decision.**