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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, for a Permit to Construct the Moraga-Oakland X Line 115-kV Rebuild Project Pursuant to General Order 131-D (U-39E).

Application 24-11-005

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

This scoping memo and ruling identifies the issues to be considered in this proceeding and the anticipated timetable for its resolution and directs parties who intend to offer comment on issues that will be addressed in the anticipated environmental document to submit them by public comment pursuant to the California Environmental Quality Act (CEQA),<sup>1</sup> as explained below. A prehearing conference (PHC) will be set as soon as practicable around the time the environmental document is released to identify any additional issues to be considered in the formal proceeding and the final schedule for the remainder of the proceeding.

**1. Background**

On November 15, 2024 by Application (A.) 24-11-005, Pacific Gas and Electric Company (PG&E) sought a permit to construct (PTC) the Moraga-Oakland X 115 kilovolt (kV) Rebuild Project (Proposed Project) to rebuild the existing Moraga-Oakland X line by replacing approximately four miles of two overhead parallel double circuit 115 kV power lines in place and

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<sup>1</sup> Public Resources Code §§ 21000 et. seq.

undergrounding approximately one mile of two parallel double circuit 115 kV power lines to better serve the Oakland area. The project will replace structures that are around 100 years old with modern equipment that will provide important system reliability improvements, safety improvements including wildfire safety, and will conduct critical life cycle maintenance.

On December 16, 2024, a protest was filed by the Public Advocates Office of the California Public Utilities Commission (Cal Advocates). In its protest, Cal Advocates stated the version of the project as proposed in PG&E's application has not been approved by the California Independent System Operator. Cal Advocates also asked the California Public Utilities Commission (Commission) to consider additional issues in the scope of the proceeding. On January 6, 2025, PG&E filed a reply to the protest stating that the issues identified by Cal Advocates in its protest are either not germane to the Proposed Project or will be addressed through the CEQA process.

The Proposed Project is subject to environmental review pursuant to CEQA. CEQA requires the lead agency, the Commission in this case, to conduct a review to identify environmental impacts of a project and ways to avoid or reduce environmental impacts.<sup>2</sup> If the initial study shows that there is no substantial evidence that the Proposed Project may have a significant effect on the environment or that PG&E makes or agrees to revisions to the project plan that will reduce all project-related environmental impacts to less than significant

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<sup>2</sup> Under CEQA, a "project" is defined as a "whole action" subject to a public agency's discretionary funding or approval that has the potential to either (1) cause a direct physical change in the environment or (2) cause a reasonably foreseeable indirect physical change in the environment. "Projects" include discretionary activity by a public agency, a private activity that receives any public funding, or activities that involve the public agency's issuance of a discretionary approval and is not statutorily or categorically exempt from CEQA. See Public Resources Code § 21065.

levels, then the Commission may prepare a Negative Declaration or Mitigated Negative Declaration (MND).

Otherwise, the Commission must prepare an Environmental Impact Report (EIR) that identifies the environmental impacts of the Proposed Project and a reasonable range of project alternatives, designs a recommended mitigation program to reduce any potentially significant impacts, and identifies, from an environmental perspective, the preferred project alternative. The Commission may not approve the project unless it reviews and considers the EIR, requires the environmentally superior project alternative and all of the identified mitigation measures (unless they are found infeasible), and determines that there are overriding considerations that merit project approval despite the unavoidable significant impacts.<sup>3</sup>

In addition, pursuant to General Order (GO) 131-D<sup>4</sup> under which this instant application was filed and Decision (D.) 06-01-042, the Commission will not approve a project unless its design is in compliance with the Commission's policies governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures.

## **2. Issues**

Based on the governing authorities noticed above, the issues to be determined or otherwise considered are:

1. What are the significant environmental impacts of the Proposed Project, if any?

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<sup>3</sup> See CEQA Guidelines 15090, 15091, 15093, 15126.2, 15126.4, and 15126.6.

<sup>4</sup> A.24-11-005 was filed on November 15, 2024, and thus will proceed pursuant to GO 131-D. GO 131-E was adopted by the Commission on January 30, 2025, and is not retroactively applied to previously filed proceedings.

2. Are there potentially feasible mitigation measures that will avoid or lessen the identified significant environmental impacts?
3. Between the Proposed Project and the project alternatives, which is environmentally superior?
4. Are the mitigation measures or environmentally superior project alternatives infeasible for economic, social, legal, technological or other considerations?
5. To the extent that the Proposed Project and/or project alternatives result in significant and unavoidable impacts, are there overriding considerations that nevertheless merit Commission approval of the Proposed Project or project alternative?
6. Did the Commission review and consider the environmental document (EIR or MND), was the environmental document completed in compliance with CEQA, and does it reflect the Commission's independent judgment?
7. Is the Proposed Project and/or environmentally superior project alternative designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?
8. Does the Proposed Project have any impacts on environmental and social justice communities? And if so, does/do such impact(s) promote(s) the achievement of any of the nine goals of the Commission's Environmental and Social Justice Action Plan?

### **3. Preliminary Schedule and Need for Evidentiary Hearing**

The Commission's Energy Division has initiated the environmental review process under CEQA for the Proposed Project, which will culminate in the issuance of an environmental document (EIR or MND) identifying the Proposed Project's significant environmental impacts, if any (Issue No. 1); potentially feasible mitigation measures that will avoid or lessen the significant

environmental impacts (Issue No. 2); the environmentally superior alternative (Issue No. 3); and potentiality of mitigation measure infeasibility (Issue No. 4).

Any person or party who wishes to present evidence or comment to be considered on these Issue Nos. 1- 4 must do so through participation in the CEQA review process, i.e., public review and comment on the draft environmental document. As required by CEQA, any such comment will be addressed and included in the final environmental document.

We will not take evidence regarding those CEQA issues outside of the final environmental document. To request addition to the CEQA review service list, or for other information regarding the environmental review, please utilize the project website at <https://ia.cpuc.ca.gov/environment/info/aspen/moraga-oakland/moraga-oakland.htm>, or contact the Energy Division project manager, Tharon Wright via email at [tharon.wright@cpuc.ca.gov](mailto:tharon.wright@cpuc.ca.gov) or phone at (916) 594-4699.

It is not possible to meaningfully assess and determine the need for evidentiary hearing or otherwise proceed on the remaining Issues Nos. 5 through 8 until the environmental review process is completed. Therefore, a PHC will be set at or near the completion of the environmental document to identify any additional issues to be determined, the need for evidentiary hearing, and schedule for the remaining Issue Nos. 5 through 8. Meanwhile, at this time I will preliminarily determine that evidentiary hearing may be needed on one or more of the remaining Issue Nos. 5 through 8.

The need for evidentiary hearing on the remaining formal proceeding issues and the formal proceeding schedule may be revisited and modified by the assigned Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of this proceeding.

#### **4. Alternative Dispute Resolution Program and Settlements**

The Commission's Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses the Commission's ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.<sup>5</sup>

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Commission's Rules of Practice and Procedure (Rules) and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

#### **5. Category of Proceeding and Ex Parte Restrictions**

This ruling confirms the Commission's preliminary determination<sup>6</sup> that this is a ratesetting proceeding. Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Rules.

#### **6. Public Outreach**

Pursuant to Public Utilities Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter

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<sup>5</sup> <https://www.cpuc.ca.gov/PUC/adr/>

<sup>6</sup> Resolution ALJ-176-3556 at page 1.

via GO 131-D, Section XI which requires an applicant to notice of filing of the application for a permit to construct.

As required by GO 131-D, Section XI, PG&E provided public notice of this matter as follows (see November 25, 2024, compliance filing of PG&E):

By direct mail to the City of Orinda Planning Department, Contra Costa County Department of Conservation & Development, Alameda County Community Development Agency, City of Oakland Planning Department, City of Piedmont Planning Department, California Energy Commission, the California Department of Transportation (Caltrans) Division of Aeronautics, Caltrans District 4, California Natural Resources Agency, California Department of Fish and Wildlife (CDFW), CDFW Region 3, California Department of Health Services, California State Water Resources Control Board, California Air Resources Board, Bay Area Air Quality Management District, Bay Area Regional Water Quality Control Board, Native American Heritage Commission, U.S. Fish and Wildlife Service Pacific Southwest Region, and the U.S. Army Corps of Engineers SF District Regulatory Division;

By direct mail to all owners of land on which the proposed facility would be located and owners of property within 1,000 feet of the right-of-way as determined by the most recent local assessor's parcel roll available to the utility at the time notice is sent (GO 131-D, Section XI(b) requires 300 feet);

By advertisement, not less than once a week, two weeks successively, in a newspaper or newspapers of general circulation in the county or counties in which the proposed project would be located, the first publication to be not later than ten days after filing the application (PG&E published its notice in the East Bay Times newspaper, which covers Contra Costa and Alameda counties); and

By posting a notice on-site and off-site where the project would be located.

### **7. Intervenor Compensation**

Pursuant to Public Utilities Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by 30 days after the PHC.

### **8. Response to Public Comments**

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

### **9. Public Advisor**

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <https://www.cpuc.ca.gov/about-cpuc/divisions/news-and-public-information-office/public-advisors-office> or contact the Commission’s Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

### **10. Filing, Service, and Service List**

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.<sup>7</sup>

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<sup>7</sup> The form to request additions and changes to the Service list may be found at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>



When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10, with one exception, such that all parties are excused from the Rule 1.10 requirement to serve on the ALJ both an electronic and paper copy of filed or serviced documents. Therefore, when serving documents on Commissioners, their personal advisors, and the ALJ, whether they are on the official service list or not, parties must only provide electronic service, unless otherwise instructed by the ALJ. All parties to these proceedings shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m. on the date scheduled for service to occur.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov) to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission's subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

#### **11. Receiving Electronic Service from the Commission**

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission

proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your email safe sender list and update your email screening practices, settings and filters to ensure receipt of emails from the Commission.

**12. Assignment of Proceeding**

Karen Douglas is the assigned Commissioner and David Van Dyken is the assigned Administrative Law Judge for the proceeding.

**IT IS RULED** that:

1. The issues to be determined in this proceeding are as described above and are adopted.
2. The preliminary schedule for this proceeding is set forth above and is adopted.
3. Parties who wish to present comments or information to be considered on the identification of significant environmental impacts, project alternatives and mitigation measures, and the environmentally superior alternatives must do so through participation in the California Environmental Quality Act review process as discussed in this ruling.
4. Hearing is needed.
5. The presiding officer is Administrative Law Judge David Van Dyken.
6. The category of this proceeding is ratesetting.

Dated March 11, 2025, at San Francisco, California.

/s/ KAREN DOUGLAS

Karen Douglas  
Assigned Commissioner