

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



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Application of Pacific Gas and Electric Company (U39E) for a Determination Under Section 851 of Whether a Condemnation of Assets by the South San Joaquin Irrigation District Would Serve the Public Interest.

Application 24-08-013
(Filed August 30, 2024)

**NOTICE OF EX PARTE COMMUNICATION OF
SOUTH SAN JOAQUIN IRRIGATION DISTRICT**

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October 27, 2025

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OF THE STATE OF CALIFORNIA**

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South San Joaquin Irrigation District (“District”) hereby gives notice pursuant to Rule 8.4(a) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) of the following communication.

DATE, TIME, AND LOCATION OF COMMUNICATION: October 22, 2025 from 10:00 a.m. to 10:30 a.m., via webex: ex parte meeting with President Alice Busching Reynolds’ and Commissioner John Reynolds’ offices.

WHO INITIATED COMMUNICATION: Ann Trowbridge, counsel for South San Joaquin Irrigation District (SSJID or District); and Nora Sheriff, co-counsel for SSJID.

NAMES AND TITLES OF NON-CPUC PERSONS PRESENT: Peter Rietkerk, General Manager of the District; Ann Trowbridge, counsel for SSJID; and Nora Sheriff, co-counsel for SSJID.

NAMES AND TITLES OF CPUC PERSONS PRESENT: Amin Younes, Advisor to Commissioner John Reynolds; and Syche Cai and Drew Hodel, Advisors to President Reynolds.

DESCRIPTION OF COMMUNICATION: Mr. Rietkerk, Ms. Trowbridge and Ms. Sheriff thanked Mr. Younes, Ms. Cai and Mr. Hodel for their time and focus on this proceeding.

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Mr. Rietkerk reiterated the importance of the electric service project to SSJID, which SSJID has been pursuing for approximately 20 years. The SSJID acquisition involves approximately 43,000 customers, less than 1% of PG&E's approximately 5.5 million customers – it is not a statewide threat.

Mr. Rietkerk explained that given the legal issues and prejudice to the District if the Commission were to act before eminent domain proceedings, and the Superior Court's deference to the CPUC to determine whether it wants to conduct a Section 851 review before or after those proceedings, the Proposed Decision reaches the right result on the PG&E Application and SSJID strongly supports its adoption with minor clarifying revisions.

Ms. Trowbridge explained that the District is concerned because the Proposed Decision includes pro forma language typically used in Commission decisions "affirming all rulings made by the Administrative Law Judge [(ALJ)] and assigned Commissioner." That language suggests that the ALJ's June 6 Ruling denying the SSJID Motion for Reconsideration might be affirmed. While that result appears inadvertent through the use of pro forma language, it is inconsistent with the determination in the Proposed Decision that SSJID's Motion for Reconsideration is moot and creates uncertainty around the status of the legal issues raised in SSJID's Motion for Reconsideration. SSJID would need to file additional pleadings, including an application for rehearing and potentially appeals, if the ALJ's Ruling is affirmed. Subjecting SSJID to a legally flawed ALJ's Ruling and treating SSJID's Motion for Reconsideration as if it never existed would be prejudicial to SSJID and deprive it of due process.

Ms. Trowbridge next explained that neither PG&E nor the Coalition of California Utility Employees (CUE) provided a basis for withdrawing the Proposed Decision and proceeding under the ALJ's Ruling denying the SSJID Motion to Dismiss the PG&E Application. Neither PG&E

nor CUE identified a legal, factual or technical error in the Proposed Decision as required by Commission Rule 14.3, and so their comments should be accorded no weight.

Additionally, PG&E persists in omitting reference to the Superior Court's threshold question regarding whether the Commission wants to conduct any Section 851 review now, or following eminent domain proceedings. The Court appreciated that this determination is solely within the Commission's discretion and did not want to strip the Commission of that decision.

Ms. Trowbridge discussed the why the Commission should not undertake a broad scope of review before the Superior Court proceedings, as proposed by PG&E:

- (1) PG&E has cited no law providing that eminent domain public interest review is the same as Section 851 review.
- (2) The Legislature did not amend the Eminent Domain Law to authorize the CPUC to make eminent domain determinations instead of the Superior Court, nor did it amend the Constitutional right to a jury trial.
- (3) The Proposed Decision does not deprive the CPUC of its authority under Section 851 and ensures any CPUC review following eminent domain proceedings will not impinge on SSJID's constitutional right to a jury trial on valuation or void the SSJID acquisition based on speculation.
- (4) After repeatedly arguing for the Commission to consider a value or a range of values in a Section 851 review, PG&E now suggests that valuation need not be considered. But PG&E does not say what the Commission would review without right-to-take and valuation determinations. The Commission would have to speculate. Under these circumstances, a Commission decision would be prejudicial to SSJID, where, as PG&E claims, a Commission decision will have prejudicial effect in Superior Court.

Ms. Trowbridge also explained if the Proposed Decision were withdrawn and review under the ALJ's Ruling were to proceed, the Commission would still need to consider the legal issues in SSJID's Motion for Reconsideration and SSJID would need to take all appropriate appeal steps to protect its rights.

Ms. Trowbridge noted the District's concern with the new objection in PG&E's reply comments to the Proposed Decision granting SSJID's Motion to Dismiss. SSJID identified various bases for the Commission to dismiss PG&E's Application in its Motion to Dismiss and Motion for Reconsideration and the Proposed Decision correctly additionally explains that the Commission has authority to dismiss the PG&E Application even before a scoping memo issues.

Ms. Sheriff explained that PG&E's sequencing proposal would result in costly and inefficient piecemealing and would be much less efficient than if the Court conducted eminent domain proceedings first. Under PG&E's approach, the Commission would conduct a first phase of a Section 851 review based on speculation regarding what transaction the Court might approve, and a second phase after the court establishes a transaction. The second phase may even require completely redoing the first phase if the speculative assumptions about a transaction in that phase were incorrect. SSJID would be prejudiced if the Commission were to void the SSJID transaction in a first phase before its terms had been established.

Ms. Sheriff pointed out that PG&E in its comments on the Proposed Decision estimates its costs for Superior Court trials could be more than \$30 million, and that its 2027 General Rate Case (GRC) cost forecast did not assume trials in the Superior Court. Yet, PG&E testimony in the GRC says PG&E is currently involved in the SSJID eminent domain action in Superior Court, raising questions regarding whether PG&E may include at least some trial costs in the 2027 GRC forecast.

Ms. Sheriff summarized the District's concerns. The Proposed Decision is a proper exercise of Commission discretion. SSJID strongly supports the Proposed Decision respectfully requests that it be adopted with SSJID's proposed minor clarifying revisions.

WRITTEN MATERIALS PROVIDED: None.

DATED: October 27, 2025

Respectfully submitted,
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