

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Agenda ID: 19006
RESOLUTION G-3574
December 17, 2020

R E S O L U T I O N

Resolution G-3574. Pacific Gas and Electric request for approval of agreements with Santa Clara Valley Transportation Authority for the relocation of utility facilities.

PROPOSED OUTCOME:

- This Resolution approves Pacific Gas and Electric's (PG&E) Advice Letter (AL) 4216-G/5762-E with an effective date of today.
- The two Master Agreements filed for approval in the AL address the relocation of PG&E electric and gas facilities to accommodate the construction of two Santa Clara Valley Transportation Authority (VTA) expansion projects associated with the Bay Area Rapid Transit (BART) system.

SAFETY CONSIDERATIONS:

- Work to relocate overhead and underground electric and gas utility facilities will conform to all current and applicable laws, Commission regulations, and industry and PG&E safety requirements as discussed in this Resolution and documented in the agreements.

ESTIMATED COST:

- PG&E estimates that costs allocated to ratepayers would be between \$11 million and \$22 million and costs allocated to VTA would be from \$20 million to \$31 million.

By Advice Letter 4216-G/5762-E, Filed on February 14, 2020.

SUMMARY

This Resolution conditionally approves the Master Agreements that PG&E entered into with VTA to accommodate two rail projects by relocating electric and gas facilities along the rail rights-of-way. The BART Silicon Valley Phase II (BSVII) project involves a 6-mile extension of the BART system through downtown San Jose via a 5-mile-long tunnel terminating in the City of Santa Clara. Construction is expected to begin in 2022 and end in 2028. The Eastridge to BART Regional connector/Capitol Expressway Light Rail (EBRC) project involves the extension of light rail service by 3.1 miles in the City of San Jose. Construction is expected to begin before the end of 2020 and conclude spring 2021.

The Master Agreements govern the obligations of PG&E and VTA regarding electric and gas facility relocations, including planning, design, safety, permitting, land rights acquisition, construction, and billing arrangements. Electric transmission and distribution facilities and gas distribution facilities would be relocated.

PG&E estimates that the combined costs from the BSVII and EBRC projects allocated to ratepayers would be between \$11 million and \$22 million. Costs allocated to VTA would be from \$20 million to \$31 million. Cost allocation was determined based on a settlement agreement stemming from litigation between PG&E, VTA, the City of San Jose, the City of Santa Clara, and Pacific Bell between 1988 and 1990 before the Santa Clara County Superior Court.

BACKGROUND

PG&E filed AL 4216-G/5762-E on February 14, 2020, requesting approval of two Master Agreements. The Master Agreements address the relocation of PG&E electric and gas facilities to accommodate the construction of two VTA expansion projects associated with the BART system. The AL 4216-G/5762-E was filed pursuant to GO 96-B, Section 9.2.3 for service to government agencies.

NOTICE

Notice of AL 4216-G/5762-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

There were no protests to PG&E AL 4216-G/5762-E.

DISCUSSION

Two Master Agreements

PG&E filed two Master Agreements for approval in the AL 4216-G/5762-E address the relocation of PG&E electric and gas facilities to accommodate the construction of two VTA expansion projects associated with the BART system. PG&E filed AL 4216-G/5762-E pursuant to GO 96-B, Section 9.2.3 for service to government agencies.

The obligations of PG&E and VTA regarding the anticipated electric and gas facility relocations, including planning, design, safety, permitting, land rights acquisition, construction, and billing arrangements are appropriately established in the two Master Agreements. Roles and responsibilities for satisfying all permitting requirements are appropriately established in Section 6.4 of the two Master Agreements. Where compliance with the California Environmental Quality Act is necessary, VTA would ensure compliance.

PG&E Facilities to be Relocated

Electric transmission and distribution facilities and gas distribution facilities would be relocated. For the BSVII project, initial PG&E plans indicate that the relocation work would involve about 1,500 feet of underground 12-kV electric distribution lines, two poles supporting 12-kV overhead conductor, several 115-kV electric transmission poles supporting 2,500 feet of overhead conductor, a 115/12-kV transformer, and about 2,700 feet of gas distribution pipelines. PG&E's work is expected to take four years and begin prior to VTA's start of construction in 2022. For the EBRC project, initial PG&E plans indicate that the relocation work would involve nine underground vaults supporting electric distribution lines, about 1,400 feet of 12-kV overhead conductor and poles, and about 1,200 feet of underground electric distribution lines. PG&E's work is expected to begin fall 2020 and complete by spring 2021.

Safety is a central aspect of PG&E and associated industry work procedures. The work required to relocate overhead and underground electric and gas utility

facilities will conform to all current and applicable laws, Commission regulations, and industry and PG&E safety requirements.

Cost Allocation

Cost allocation would vary according to the existing land rights and terms (if any) at each relocation location. Based on the terms of existing easements, licenses, or permits issued to PG&E, there are some cases where VTA being grantor or successor of interest to the grantor that relocation costs would be at PG&E's expense (100 percent). In other cases, existing easement terms dictate that costs would be allocated 100 percent to VTA. For locations where PG&E facilities are located within the public right of way, costs would be allocated equally between VTA and PG&E.

These are the same cost allocation terms previously approved in Energy Division's disposition of AL 3522-G/4511-E on February 17, 2015 and AL 3334-G/4129-E on June 17, 2013. The terms were established based on a settlement agreement stemming from litigation between PG&E, VTA, the City of San Jose, the City of Santa Clara, and Pacific Bell between 1988 and 1990 before the Santa Clara County Superior Court. The following three lawsuits were filed with each relating to the same set of facts, a legal dispute as to the financial liability for the relocation of utilities in conflict with the proposed Guadalupe Light Rail project:

- a. Santa Clara County Transit District, City of San Jose, City of Santa Clara, v. Pacific Gas and Electric Company and Pacific Bell, Santa Clara County Superior Court Case No. 672181;
- b. Pacific Gas and Electric Company v. Santa Clara County Transit District, Guadalupe Corridor Joint Powers Board, Santa Clara Superior Court Case No. 672206; and
- c. Pacific Bell v. Santa Clara County Transit District, Santa Clara County Superior Court Case No. 672197.

With execution of the settlement agreement for the Guadalupe Light Rail project, the litigants entered into another agreement, titled, "Agreement to Reimburse Public Utilities for Future Utility Relocation," related to the planned Tasman Corridor Project. Under this agreement, the parties agreed to allocate future utility relocation costs associated with the Tasman Corridor Project under a cost-sharing formula, and that recognized the costs would include all costs and

expenses of engineering, design and planning, and other costs as provided in Public Utilities Code Section 7952, with credits for applicable salvage and betterment.

Cost Estimates

For the BSVII project, PG&E estimates that the work would cost between \$21.2 and \$42.4 million and anticipates that costs would be allocated at 50 percent to VTA and 50 percent to ratepayers. For the EBRC project, PG&E anticipates the estimated \$8.6 million in electric transmission work would be paid in full by VTA. PG&E anticipates that the remaining work would be allocated at 50 percent to VTA and 50 percent to ratepayers. PG&E estimates that the combined costs from both projects allocated to ratepayers would be between \$11 million and \$22 million. Costs allocated to VTA (combined) would be from \$20 million to \$31 million.

Annual Reports

PG&E already files annual reports for relocation work required to accommodate similar VTA projects pursuant to Energy Division's disposition of AL 3522-G/4511-E and AL 3334-G/4129-E. It is reasonable that PG&E report on VTA's BSVII and EBRC projects in the same annual reports.

The next annual report and all reports thereafter shall include the BSVII and EBRC project information as well as information specific to the projects described in the prior ALs. The annual report shall include an update on the two additional projects with the information specified in Energy Division's February 17, 2015 disposition of AL 3522-G/4511-E and as updated in this Resolution. For each project where costs are allocated to parties under the terms of the approved VTA master agreements, PG&E shall work with Energy Division staff to include a robust reporting of information in the annual report, which will include, at minimum:

Project Specific

- Project name (e.g., BSVII, EBRC, or other VTA project)
- Project location
- In-service date
- Total costs identified (actual to date and forecast) as follows:
 - Gas
 - CPUC jurisdictional electric
 - FERC jurisdictional electric
 - Total, all facility types

- Costs allocated to VTA (actual to date and forecast) as follows:
 - Gas
 - CPUC jurisdictional electric
 - FERC jurisdictional electric
 - Total, all facility types
- Costs allocated to PG&E (actual to date and forecast) as follows:
 - Gas
 - CPUC jurisdictional electric
 - FERC jurisdictional electric
 - Total, all facility types

All VTA Projects (Combined Costs)

- For each VTA project where costs have been allocated to parties under the Master Agreements filed with AL 4216-G/5762-E,
- AL 3522-G/4511-E, and AL 3334-G/4129-E, provide the combined total costs (actual to date and forecast) as follows:
 - Allocated to VTA (list actual to date and list forecast):
 - Gas
 - CPUC jurisdictional electric
 - FERC jurisdictional electric
 - Total, all facility types
 - Allocated to PG&E (list actual to date and list forecast):
 - Gas
 - CPUC jurisdictional electric
 - FERC jurisdictional electric
 - Total, all facility types

PG&E shall submit the next annual report to Energy Division Central Files (energydivisioncentralfiles@cpuc.ca.gov) on March 1, 2021. The reports will continue on an annual basis until the last project is completed and fully reported as required by this and the preceding AL approvals.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is being reduced to 10 days.

FINDINGS

1. PG&E filed AL 4216-G/5762-E pursuant to GO 96-B, Section 9.2.3 for service to government agencies.
2. The Master Agreements for the BSVII and EBRC projects appropriately establish the obligations of PG&E and VTA regarding electric and gas facility relocations, including planning, design, safety, permitting, land rights acquisition, construction, and billing arrangements.
3. Safety would be ensured because the work to relocate overhead and underground electric and gas utility facilities must conform to all current and applicable laws, Commission regulations, and industry and PG&E safety requirements.
4. Roles and responsibilities for satisfying all permitting requirements are appropriately established in Section 6.4 of the two Master Agreements. Where compliance with the California Environmental Quality Act is necessary, VTA would ensure compliance.
5. It is reasonable that cost allocation terms be the same as those previously approved in Energy Division's disposition of AL 3522-G/4511-E on February 17, 2015 and AL 3334-G/4129-E on June 17, 2013 and prior litigation between PG&E and VTA.
6. It is appropriate that PG&E include a reporting on the two Master Agreements in AL 4216-G/5762-E in the annual reports required by Energy Division's disposition of AL 3522-G/4511-E and AL 3334-G/4129-E.

THEREFORE IT IS ORDERED THAT:

1. The Master Agreements between Pacific Gas and Electric (PG&E) and Santa Clara Valley Transportation Authority (VTA) submitted with Advice Letter 4216-G/5762-E are approved subject to the condition contained in this Resolution.
2. PG&E shall submit to the Commission annual reports with the details specified in the Discussion section of this Resolution on March 1st of each year starting on March 1, 2021 until PG&E's work for each VTA project is completed and fully reported.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on December 17, 2020; the following Commissioners voting favorably thereon:

RACHEL PETERSON
Acting Executive Director