Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application Of SOUTHERN CALIFORNIA EDISON COMPANY (U338E) for a Certificate of Public Convenience and Necessity: Eldorado-Lugo-Mohave Series Capacitor Project.	Application 18-05-007

DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY'S PETITION FOR MODIFICATION OF DECISION 20-08-032

Summary

This decision grants the Petition for Modification filed on May 24, 2023, by Southern California Edison Company, seeking to modify Decision 20-08-032 to increase the maximum reasonable and prudent cost for the Eldorado-Lugo-Mohave Series Capacitor Project from $239 million to $295 million. This proceeding is closed.

1. Background

1.1. Proceeding History

On May 2, 2018, Southern California Edison Company (SCE) filed Application (A.) 18-05-007 for a permit to construct (PTC) its Eldorado-Lugo-Mohave Series Capacitor Project (ELM Project) in San Bernardino County and

concurrently filed its Proponent's Environmental Assessment for the ELM Project.[1] SCE proposed that increasing the capacity of the existing transmission lines would help meet the state's Renewables Portfolio Standard (RPS) requirements and ensure compliance with the California Public Utilities Commission's (Commission) General Order (GO) 95, among other stated goals.[2] The ELM Project comprises of, *inter alia*, constructing two new 500 kilovolt (kV) mid-line series capacitors and associated equipment, installing approximately 235 miles of Optical Ground Wire to replace existing overhead ground wire, replacing existing series capacitors on the Lugo 500 kV Transmission Line, and installing new terminal equipment on the Eldorado and Lugo 500 kV Transmission Lines.

On January 9, 2019, the Commission issued an Assigned Commissioner's Ruling and ordered SCE to file an Amended Application as an application for a certificate of public convenience and necessity (CPCN).

On April 19, 2019, SCE filed its Amended Application seeking a CPCN for the ELM Project.

On August 27, 2020, the Commission granted SCE's Amended Application for a CPCN for the ELM Project in Decision (D.) 20-08-032.[3] D.20-08-032 found that the ELM Project's upgrades would improve grid reliability and increase

[1] Application of Southern California Edison Company for a Permit to Construct Electrical Facilities: Eldorado-Lugo-Mohave Series Capacitor Project, filed on May 2, 2018 (Application of SCE for a Permit to Construct Electrical Facilities).

[2] Application of SCE for a Permit to Construct Electrical Facilities at 4.

[3] D.20-08-032 was issued on September 23, 2020.

transmission capacity,[4] which "are needed to help meet the state's RPS goals."[5] The Commission approved the maximum reasonable and prudent cost of $220 million in direct costs and up to $19 million in contingency costs,[6] totaling $239 million. D.20-08-032 determined that SCE's Amended Application complies with all relevant procedural and statutory requirements.[7]

D.20-08-032 noted that the Commission's Energy Division released a final Mitigated Negative Declaration (MND) on November 2019,[8] and that the MND and its preparation complied with the applicable requirements of the California Environmental Quality Act (CEQA).[9]

D.20-08-032 found that environmental issues were appropriately addressed through mitigation measures and that, with the mitigation measures as set forth in the MND, there is no substantial evidence that the proposed ELM Project will have a significant effect on the environment.[10] D.20-08-032 concluded that possible exposure to EMF has been reduced by the no-cost and low-cost measures SCE included in the ELM Project that are specified in the Amended Application's Field Management.[11]

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[4] D.20-08-032, Finding of Fact 1 at 46.

[5] D.20-08-032, Finding of Fact 2 at 46.

[6] D.20-08-032, Ordering Paragraph 4 at 52.

[7] D.20-08-032 at 8.

[8] D.20-08-032 at 7.

[9] D.20-08-032 at 23.

[10] D.20-08-032 at 20, 23; Finding of Fact 11 at 47-48.

[11] D.20-08-032, Conclusion of Law 5 at 49.

D.20-08-032 found that SCE agrees to undertake safety measures in its construction of the ELM Project[12] and concluded that they were reasonable.[13]

On October 5, 2020, Wild Tree Foundation (Wild Tree) filed an Application for Rehearing of D.20-08-032 (AFR).[14] Wild Tree claimed SCE failed its burden of proof that its ELM Project is reasonable and that its Amended Application should have been denied.[15] Specifically, it claimed the ELM Project was not needed to meet the state's 2020 RPS goals that have already been met[16] and an Environmental Impact Report was required instead of the MND.[17]

On October 20, 2020, three parties filed responses opposing Wild Tree's AFR: SCE,[18] the California Independent System Operator (CAISO),[19] and EDF Renewable Energy, Inc. (EDF).[20] They argued that the ELM Project was needed to meet the state's 2030 RPS goals, the Commission considered transmission and

[12] D.20-08-032, Finding of Fact 17 at 48.

[13] D.20-08-032, Conclusion of Law 10 at 50.

[14] Wild Tree Foundation's Application for Rehearing, filed on October 5, 2020.

[15] Wild Tree AFR at 3.

[16] Wild Tree AFR at 2.

[17] Wild Tree AFR at 22-23.

[18] Southern California Edison Company's Response to the Wild Tree Foundation's Application for Rehearing of Decision 20-08-032, filed on October 20, 2020.

[19] California Independent System Operator Corporation's Response to the Wild Tree Foundation's Application for Rehearing of Decision 20-08-032, filed on October 20, 2020.

[20] EDF Renewable Energy, Inc.'s Response to the Wild Tree Foundation's Application for Rehearing of Decision 20-08-032, filed on October 20, 2020.

non-transmission alternatives, and determined that the MND was legally sufficient under CEQA.[21]

On January 14, 2021, the Commission issued D.21-01-025 and denied Wild Tree's AFR.

1.2. Petition

On May 24, 2023, SCE filed a Petition for Modification (PFM or Petition) of D.20-08-032, requesting that the Commission modify the decision to increase the maximum reasonable and prudent cost for the ELM Project from $239 million to $295 million, a $57 million increase.[22] SCE claimed the ELM Project's state and federal agency approval processes took longer than expected, which led it to incur additional costs in storing and insuring some equipment as well as in expensing burn rate for SCE and retained contractors until construction commenced.[23] SCE also cited increases in the cost of construction services and weather-related material and supply chain issues, which it could not control or foresee.[24] Lastly, SCE noted these factors increased the project cost and pushed the project online date from June 2021 to December 2023.[25]

[21] California Public Resources Code § 21000, *et seq*.

[22] Southern California Edison Company's Petition for Modification of Decision 20-08-032, filed on May 24, 2023 (SCE PFM) at 2.

[23] SCE PFM at 17-18.

[24] SCE PFM at 14, 17.

[25] SCE PFM at 3.

1.3. Status Conference Statements and Quarterly Status Statements

On July 25, 2023, previously assigned Administrative Law Judge (ALJ) set a status conference date and directed SCE to file a status conference statement.

On August 8, 2023, SCE filed a status conference statement where it responded to ten questions as directed by the ALJ. SCE reported it incurred additional costs in accelerating its work to mitigate further scheduling impacts and that its project online date was further pushed back, from December 2023 to June 2024.

On August 11, 2023, a status conference was held during which SCE reported that: (1) it anticipated the ELM Project would now be completed in June 2024 rather than December 2023; and (2) the ELM Project was approximately 75 percent complete. On August 16, 2023, the ALJ directed SCE to file a status statement with a complete narrative Declaration along with all supporting documentation, which SCE filed on December 1, 2023, along with a leave to file under seal the confidential version of its statements.

On July 27, 2024, the assigned ALJ directed SCE to file quarterly status statements regarding its PFM.

On August 29, 2024, SCE filed the first of its quarterly status statement in support of its PFM. SCE reported that the ELM Project was 81.30 percent complete with a completion date of May 2025, a delay of two months since its May 2024 status update. SCE noted that the arbitration proceeding between it and its contractor Siemens Energy, Inc./Beta Engineering California LP Joint Venture (Contractor) remained pending with a hearing set to commence on March 19, 2025, which centers on the extent to which the Contractor was

responsible for project delays. The disputes include project change orders (PCOs) and liquidated damages, and the extent to which the Contractor was responsible for project delays. Pending the resolution of these disputes, SCE claimed the total completion cost of the project remained unknown but that it did not plan on amending the PFM. SCE's total project expenditure was $245 million through July 31, 2024, with potential liability of $28 million in PCOs.

On November 1, 2024, SCE filed its second quarterly status statement in support of its PFM. SCE reported that the ELM Project remained 84.04 percent complete and the estimated completion date of May 2025 had not changed.

On February 2, 2025, SCE filed its third quarterly status statement in support of its PFM. SCE reported that the ELM Project was 89.89 percent complete and the estimated completion date of May 2025 had not changed, contingent on meeting the milestones of: (1) in-service of Series Capacitor (SC) 1 by March 2025; (2) in-service of SC2 by May 2025; and (3) obtaining approvals to install the Southern California Gas (SoCalGas) Alternating Current (AC) mitigation work. SCE further reported that an arbitration proceeding between SCE and its Contractor was set to commence in March 2025 addressing disputes including multiple PCOs the Contractor had submitted, and that the potential cost liability associated with these PCOs could increase the project costs beyond the total cost requested in SCE's May 2023 PFM. That said, SCE reported it still expected the total project spend would remain within the $295 million MRPC requested in its PFM, pending resolution of the PCOs' arbitration.

On May 1, 2025, SCE filed its fourth quarterly status statement in support of its PFM. SCE reported that the ELM Project was 97.83 percent complete and

the completion date of May 2025 had not changed. Progress had been made on the series capacitor work (SC1 and SC4), with the May 2025 completion date contingent on in-servicing SC4. SCE reported that the Lugo-Mohave transmission line may not be operated at the full compensation until the SoCalGas AC mitigation work was complete. The arbitration proceeding with SCE's Contractor had concluded with a settlement resolving all disputes including all PCOs. Consequently, SCE expected that the total ELM Project expenditure will remain within the $295 million ($2019 constant) maximum reasonable and prudent cost amount requested in its PFM, that the maximum reasonable and prudent cost will not need to be revised accommodate the cost of Settled PCOs, with the caveat that any further changes that may occur could impact the total ELM Project completion cost.

On August 1, 2025, SCE filed its fifth quarterly status statement in support of its PFM and reported: (1) the project is now 98.96 percent complete; (2) its PFM request of maximum reasonable and prudent cost amount of $295 million remains unchanged; and (3) SCE does not intend to operate the Lugo-Mohave transmission line at the full compensation delivered by the ELM Project, until the SoCalGas pipeline AC mitigation work is complete.

The issue of the SoCalGas AC mitigation work remains, with SCE working with SoCalGas to develop the scope, schedule and cost estimate for that work. SCE reported that it anticipated it may be necessary to file a second PFM at some later time to address such costs.[26]

[26] SCE May 1, 2025 Status Statement in Support of PFM at 16.

2. Legal Standard

Public Utilities Code Section 1708 authorizes the Commission to "rescind, alter, or amend any order or decision made by it" after providing proper notice to the parties and an opportunity to be heard. By its very nature, the Commission's authority under Section 1708 is an extraordinary remedy. It must be exercised with care, justified by extraordinary circumstances, and remain consistent with the fundamental principles of res judicata because "Section 1708 represents a departure from the standard that settled expectations should be allowed to stand undisturbed."[27]

Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules) governs the filing of a petition for modification, a procedural vehicle that "asks the Commission to make changes to an issued decision."[28] Rule 16.4 requires, in relevant parts, that a petition for modification must:

- Be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines the petitioner failed to justify the late submission, "it may on that ground (alone) issue a summary denial of the petition";[29] and
- Concisely state the justification for the requested relief and propose specific wording to carry out all requested modifications to the decision, support any factual allegations with specific citations to the record in the

[27] D.92058 (1980) 4 CPUC 2d 139 at 149-150; *see also* D.15-05-004 at 6.

[28] Rule 16.4(a)

[29] Rule 16.4(d).

> proceeding or to matters that may be officially noticed, and support any allegations of new or changed facts with an appropriate declaration or affidavit.[30]

3. Discussion

As discussed below, SCE has complied with Rule 16.4. Petition is granted.

First, Rule 16.4 (d) requires that a petition for modification must be:

> …filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines the petitioner failed to justify the late submission, it may on that ground [alone] issue a summary denial of the petition.

D.20-08-031 was issued on September 3, 2020, and SCE's Petition was filed and served on May 24, 2023, which is more than "within one year of the effective date of the decision proposed to be modified" as required by Rule 16.4(d). However, SCE explains that its Petition could not have been "filed and served within one year of the effective date of the decision proposed to be modified" due to unforeseen agency approval timelines and supply chain issues.

Second, Rule 16.4(b) requires the petitioner to:

> ... concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.

[30] Rule 16.4(b).

Petition meets Rule 16.4(b) requirements by setting forth detailed justifications including cascading increases in the cost of construction services and weather-related material and supply chain issues which it could neither control nor foresee, supported by detailed cost Tables in the PFM[31] and in Declarations appended to its Status Support Statements.[32] Petition includes as its Appendix A "Proposed Language to Support Petition to Modify D.20-05-032" which contains specific requested changes to language appearing on: (1) D.20-08-032 at 34; (2) Finding of Fact 18; (3) Conclusion of Law 12, and (4) Ordering Paragraph 4 and Ordering Paragraph 10, and adding a new Ordering Paragraph 11.

In sum, we are persuaded by SCE's uncontested Petition. We find that SCE has complied with Rule 16.4. Petition is therefore granted.

4. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

There are no Public Comments appearing on the Docket Card for this Petition for Modification.

[31] SCE PFM at 14, 17-33.

[32] *See* SCE May 1, 2025, Status Statement in Support of PFM, Appendix A (Declaration of Selya Juliano Arce) at 34-302 and Attachment C (Declaration of Mukhtar Taslim) at 303-308.

5. Assignment of Proceeding

Karen Douglas is the assigned Commissioner and Paul Hagen is the assigned ALJ in this proceeding.

Findings of Fact

1. SCE provided detailed justifications regarding increases in the cost of construction services and weather-related material and supply chain issues for the ELM Project which it could neither foresee nor control, which were supported by detailed cost Tables in its Status Support Statements and by documents appearing in Declarations appended to its Status Support Statements.
2. SCE incurred additional costs in accelerating its work to mitigate further scheduling impacts.
3. SCE expects that the total ELM Project expenditure will remain within the $295 million ($2019 constant) maximum reasonable and prudent cost amount requested in its PFM.
4. SCE provided specific requested changes to language appearing in D.20-08-032.
5. Factors driving cost increases in the ELM Project were neither foreseeable nor within SCE's control.
6. The Petition is unopposed.

Conclusions of Law

1. The Petition complies with Rule 16.4.2.
2. The Petition should be granted.
3. Ordering Paragraph 4 of D.20-08-032 should be modified and superseded by the new maximum reasonable and prudent cost amount of $295 million for the ELM Project.

4. A.18-05-007 should be closed.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 20-08-032 filed by Southern California Edison Company on May 24, 2023, is granted.

2. Ordering Paragraph 4 of Decision 20-08-032 is modified and superseded by the new maximum reasonable and prudent cost for the Eldorado-Lugo-Mohave Series Capacitor Project is $295 million.

3. Application 18-05-007 is closed.

This order is effective today.

Dated _____, at Bellflower, California.