Decision **PROPOSED DECISION OF ALJ MASON** **(Mailed 9/24/2025)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

DECISION DISMISSING APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR A DETERMINATION UNDER SECTION 851, WITHOUT PREJUDICE

Summary

This decision dismisses, without prejudice, the *Application of Pacific Gas and Electric Company for a Determination Under Section 851 of Whether a Condemnation of Assets by the South San Joaquin Irrigation District Would Serve the Public Interest*. After Pacific Gas and Electric Company (PG&E) and the South San Joaquin Irrigation District (SSJID) have concluded their eminent domain action currently pending before the San Joaquin Superior Court, PG&E shall file an application, consistent with Public Utilities Code Sections 851, *et seq.,* for Commission review, and at that time the Commission will determine the appropriate scope of its review.

This proceeding is closed.

1. Background

1.1. Factual Background

On August 30, 2024, Pacific Gas and Electric Company (PG&E) filed its *Application for a Determination Under Public Utilities Code Section 851 of Whether a Condemnation of Assets by the South San Joaquin Irrigation District Would Serve the Public Interest* (*Application*).

On October 4, 2024, South San Joaquin Irrigation District (SSJID) filed both a *Protest* to the *Application* and a *Motion to Dismiss the Application,* with each pleading containing the same arguments to support either the dismissal or stay of the *Application*. SSJID argues that its eminent domain action against PG&E to acquire PG&E's electric distribution system assets that provide retail electric service within the SSJID service territory (*South San Joaquin Irrigation District v. Pacific Gas and Electric Company* [the *Eminent Domain Action*, Case No STK-CV-UED-2016—0006638], currently pending in the San Joaquin Superior Court) should be heard first. The assigned judge in the *Eminent Domain Action* stayed the proceeding and instructed PG&E to file the instant *Application* and ask if the Commission would entertain jurisdiction and conduct a public interest analysis first.[1]

On October 21, 2024, PG&E filed its *Response* to the *Motion to Dismiss* and disputed each of SSJID's positions.

1.2. Procedural Background

A prehearing conference was held on November 21, 2024, to address the issues of law and fact, determine the need for a hearing, set the schedule for resolving the matter, and address other matters as necessary.

[1] *Application* at 1 and Exhibit A thereto (July 16, 2024 Order from the San Joaquin County Superior Court).

On June 6, 2025, the assigned Administrative Law Judge issued his *Ruling Denying the Motion of South San Joaquin Irrigation District to Dismiss or, Alternatively, Suspend Application of Pacific Gas and electric Company for Determination Under Section 851* (*Ruling*). The *Ruling* determined that the Commission could, under the amended Public Utilities Code Section 851, *et seq*., consider the *Application*.

On June 16, 2025, SSJID filed its *Motion for Reconsideration of Administrative Law judge's Ruling Denying Motion to Dismiss or, Alternatively, Suspend Application of Pacific Gas and electric Company for a Determination Under Section 851* (*Motion for Reconsideration*).

On June 25, 2025, the following parties filed *Responses* to the *Motion for Reconsideration*: City and County of San Francisco (City), The Coalition of California Utility Employees (CUE), and PG&E.

1.3. Submission Date

This matter has not yet been submitted.

2. Discussion and Analysis

The Commission has the authority to deny or dismiss an application, with or without prejudice, even before a scoping memo has been issued if the facts in a proceeding warrant such an outcome.[2] In deciding whether to exercise that authority, the Commission is faced with two choices; (1) proceed to an evidentiary hearing on the *Application* following the amended version of Public Utilities Code Sections 851, *et seq.*, utilizing valuation scenarios rather than a valuation determination made after a jury trial; or (2) allow the *Eminent Domain Action* to proceed first. For the reasons that follow, the Commission has

[2] *See, e.g.*, D.22-09-007 2022 WL 4447512 (Cal.P.U.C.) and D.11-10-030 2011 WL 5110507 (Cal.P.U.C.).

determined that for the sake of administrative efficiency, the *Application* should be dismissed, without prejudice, pending the resolution of the *Eminent Domain Action*.

First, whether or not the condemnation of a utility's assets satisfies the standards of Public Utilities Code Sections 851, *et seq.*, could necessarily turn, in part, on the valuation of the utility's assets. Article I, Section 19(a), of the California Constitution provides for a right to jury trial so that the appropriate compensation for the assets to be condemned has been ascertained.[3] SSJID has sought, through the eminent domain process, to take PG&E's assets in SSJID's service territory in superior court since 2016, and the *Eminent Domain Action* is still currently pending. While the Commission could conceivably proceed with an evidentiary hearing based on valuation parameters, the uncertainty as to the accuracy of those parameters, especially if the parties do not stipulate to their accuracy, might result in an expensive and unproductive utilization of Commission and party resources.

Second, while the Commission does have the authority to conduct a valuation hearing if a public entity has filed a petition with the Commission pursuant to Public Utilities Code Sections 1401-1421 (Chapter 8 DETERMINATION OF JUST COMPENSATION FOR ACQUISTION OF

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[3] Article I, Section 19(a), states:

> "Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation."

See also Code of Civil Procedure Section 1250.010 ("all eminent domain proceedings shall be commenced and prosecuted in the superior court.")

UTILITY PROPERTIES),[4] SSJID has not availed itself of that procedural vehicle. Since the *Eminent Domain Action* has been pending since 2016, and by all accounts a significant amount of discovery and trial preparation has already been undertaken on the valuation issue,[5] it would promote greater efficiency to permit the *Eminent Domain Action* to proceed to trial rather than likely repeat those discovery and trial preparation endeavors within the *Application*. Once the valuation trial in the *San Joaquin Action* has concluded, PG&E must then file an application with the Commission, at which time the analysis required by Public Utilities Code Sections 851, *et seq.*, can be determined.

Because of the action taken by this decision, SSJID's *Motion for Reconsideration* has been rendered moot.

3. 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.

On October 23, 2025, California State Senator Jerry McNerney and California State Assembly person Rhodesia Ransom submitted joint comments in support of the proposed decision and its rationale.

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[4] The Commission is currently in the process of scheduling a valuation evidentiary hearing pursuant to this authority. *See* P.21-07-012, in which the City and County of San Francisco filed a petition pursuant to Public Utilities Code Sections 1401-1421 for the Commission to value PG&E-owned property that is used to provide electric service to San Francisco customers.

[5] SSJID lists the ongoing discovery and further discovery that must be completed in advance of the valuation trial. (*SSJID Protest* at 15.) SSJID also claims that the trial in the San Joaquin Action is expected to last 60 days. (*SSJID Motion to Dismiss* at 7.)

4. Procedural Matters

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on by this decision are deemed denied.

5. Comments on Proposed Decision

The proposed decision of Administrative Law Judge Robert M. Mason III in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on October 14, 2025, by PG&E, SSJID, and CUE, and reply comments were filed on October 20, 2025, by PG&E, SSJID, and City.

SSJID and City support the proposed decision but proposed that it be clarified so that it does not affirm the Administrative Law Judge's *Ruling* that denied SSJID's *Motion to Dismiss or, Alternatively, Suspend PG&E Application*. Instead, SSJID suggests that the proposed decision state that it "supersedes and replaces the ALJ's Ruling" and renders it "moot."[6] SSJID and City contend that the failure to make this proposed edit will create uncertainty around the status of the legal issues SSJID has raised, "potentially requiring additional pleadings."[7]

We reject this request and the rationale behind it. As we stated above in Section 2, after the *San Joaquin Action* has concluded and PG&E files a new application with the Commission, we can determine the analysis required by Public Utilities Code Sections 851, *et seq*. As such, affirming the Administrative

[6] SSJID Comments at 2.

[7] *Id*.

Law Judge's *Ruling* neither prescribes nor proscribes how the Commission may interpret the applicable law at a later date.

PG&E and CUE

These parties ask that the Commission vacate the proposed decision and permit the PG&E *Application* to proceed to a resolution before the Commission. First, they contend that the following issues can be resolved now without the need for a valuation determination in the *San Joaquin Action*: how SSJID's proposed action would impact California energy policy, quality of service, safety risks, utility employees, low-income customers, the Commission's jurisdiction, and local economies.[8] Second, they contend that the Commission's Section 851 review now would be more efficient than two potentially costly and time-consuming superior court trials because the Commission might ultimately determine that SSJID's proposed condemnation is contrary to the public interest.[9] PG&E and CUE also note that there might be a considerable delay in the resolution of the San Joaquin Action because of the pending case in the California Supreme Court in which review has been granted: *Town of Apple Valley v. Apple Valley Ranchos Water*, (April 23, 2025) S289391.[10] Third, the parties claim that there would be no risk of duplicative discovery because SSJID and PG&E have already agreed that each party can rely on discovery from the *San Joaquin Action*.[11] Fourth, the parties assert that the *Application* should proceed to a

[8] PG&E Comments at 5.

[9] *Id.*, at 6.

[10] PG&E Comments at 7-8; CUE Comments at 6.

[11] PG&E Comments at 8.

hearing now, as other stakeholders have an interest in the Commission's resolution of a Section 851 action.[12]

We reject the request that the Commission withdraw the proposed decision and proceed to an evidentiary hearing on the *Application*. The Commission has previously considered PG&E's issues and weighed them before making our decision to dismiss the *Application* without prejudice. Raising these issues again does not satisfy the standard contained in Rule 14.3(c), which requires that comments be limited to "factual, legal or technical errors" in the proposed decision. As PG&E has failed to demonstrate that the Commission's discretionary decision to defer any further action on PG&E's *Application* until after the *San Joaquin Action* has concluded amounts to either a factual, legal, or technical error, we do not give PG&E's comments any weight.

We do wish to provide an additional comment about the potential impact of the *Town of Apple Valley* proceeding in the California Supreme Court on the *San Joaquin Action*, and why its pendency has no bearing on our decision to dismiss PG&E's *Application*. While the California Supreme Court granted review to decide the trial court's proper standard of judicial review when a public entity files an eminent domain action to take privately held public utility property, it also stated that trial courts could for now rely on current precedent.[13] Thus, contrary to PG&E's comments, it appears the California Supreme Court's review of the *Town of Apple Valley* decision will not unnecessarily delay the *San Joaquin Action*.

[12] *Id*.

[13] *See* Petition for Review (S289391), decided April 23, 2025.

6. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Robert M. Mason III is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In 2016, South San Joaquin Irrigation District (SSJID) filed a lawsuit against PG&E in San Joaquin Superior Court to condemn and obtain a valuation of PG&E's assets located in SSJID's service territory.
2. SSJID's lawsuit against PG&E is still pending in the San Joaquin Superior Court.
3. The judge assigned to the SSJID lawsuit against PG&E stayed the lawsuit and instructed PG&E to file an application with the Commission in light of the amendments to Public Utilities Code Sections 851 *et seq*.
4. PG&E filed its *Application* with the Commission on August 30, 2024.

Conclusions of Law

1. It is reasonable to conclude that PG&E's *Application* should be dismissed, without prejudice, so that San Joaquin Superior Court Action can be tried first.
2. It is reasonable to conclude that after the San Joaquin Superior Court Action trial has concluded, PG&E should be required to file a new application with the Commission.
3. It is reasonable to conclude that by dismissing PG&E's *Application*, without prejudice, SSJID's *Motion for Reconsideration* has been rendered moot.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric's *Application* is dismissed, without prejudice.

2. After the trial in *South San Joaquin Irrigation District v. Pacific Gas and Electric Company* [Case No STK-CV-UED-2016—0006638], currently pending in

the San Joaquin Superior Court, has concluded, Pacific Gas and Electric Company shall file a new application pursuant to Public Utilities Code Section 851, *et seq*.

3. South San Joaquin Irrigation District's *Motion for Reconsideration* is moot.
4. Application 24-08-013 is closed.

This order is effective today.

Dated _______________________, at Sacramento, California.