Decision 11-07-011 July 14, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Facilities: Colorado River Substation Expansion Project.	Application 10-11-005 (Filed November 3, 2010)

DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY A PERMIT TO CONSTRUCT THE COLORADO RIVER SUBSTATION EXPANSION PROJECT

1. Summary

This decision grants Southern California Edison Company a permit to construct the Southern Alternative Colorado River Substation expansion project with the mitigation measures attached to this order. As the lead agency for environmental review of the project, we find that the Supplemental Environmental Impact Report prepared for this project meets the requirements of the California Environmental Quality Act, and that there are overriding considerations that merit construction of the project notwithstanding its significant and unavoidable environmental impacts. This proceeding is closed.

2. Background

By Decision (D.) 07-01-040 as modified pursuant to D.09-11-007, the Commission granted a certificate of public convenience and necessity (CPCN) authorizing Southern California Edison Company (SCE) to construct the Devers-Palo Verde No. 2 Transmission Line Project (DPV2), which included the

(unexpanded) Colorado River Substation (formerly known as Midpoint Substation). In so doing, D.07-01-040 certified the Final Environmental Impact Report/Environmental Impact Statement (Final EIR/EIS) for the project, which was prepared jointly by the Commission pursuant to the California Environmental Quality Act (CEQA) and the Bureau of Land Management (BLM) pursuant to the National Environmental Policy Act, as having been completed in compliance with CEQA, and adopted the mitigation monitoring plan proposed in the Final EIR/EIS as a condition of SCE accepting its CPCN.

By this application, filed on November 3, 2010, SCE seeks a permit to construct an expansion to the Colorado River Substation in order to interconnect the 1000 megawatt (MW) Blythe Solar Power Project and the 250 MW Genesis Solar Energy Project to the California Independent System Operator (CAISO)-controlled transmission grid. No protests were filed.

On February 22, 2011, the Commission's Energy Division issued a draft Supplemental Environmental Impact Report (SEIR) identifying new impacts or substantial changes in impacts that will result from the proposed substation expansion, and alternatives for reducing or avoiding them, and solicited written comments on it.

CAlifornians for Renewable Energy (CARE) and NextEra Energy Resources LLC (NextEra)[1] respectively filed motions for party status on March 4, 2011, and March 21, 2011, and Solar Millennium LLC (Solar Millennium)[2] moved for party status at the prehearing conference conducted on April 6, 2011; all three

[1] NextEra and its wholly-owned subsidiary Genesis Solar, LLC (Genesis Solar) own the Genesis Solar Energy Project.

[2] Solar Millennium owns the Blythe Solar Power Project.

entities were granted party status at the prehearing conference conducted on April 6, 2011.[3]

On April 11, 2011, the assigned Commissioner issued a scoping memo and ruling which identified the issues to be determined by the Commission in resolving the proceeding and set a schedule for addressing those issues. By ruling dated May 4, 2011, the administrative law judge admitted into evidence the final SEIR[4] and the parties' prepared testimony.

SCE, CARE, NextEra and Solar Millennium filed opening briefs on May 17, 2011, and reply briefs on May 24, 2011, upon which the record was submitted.

3. Scope of Issues

Pursuant to General Order (GO) 131-D, a permit to construct requires that the Commission review and approve the project in compliance with CEQA and that the project complies with the Commission's electromagnetic field (EMF) guidelines.

CEQA requires the lead agency (the Commission in this case) to conduct a review to identify environmental impacts of the project (CEQA Guidelines § 15126.2), and ways to avoid or reduce environmental damage (CEQA Guidelines §§ 15126.4 and 15126.6), for consideration in the determination of whether to approve the project or a project alternative. If the Commission approves a project which results in significant unavoidable environmental impacts, it must state the overriding considerations for doing so, i.e., the specific

[3] CARE's filed motion was denied without prejudice by ruling dated March 23, 2011. CARE offered a revised motion for party status at the prehearing conference.

[4] The final SEIR was issued on April 29, 2011.

economic, legal, social, technological, or other benefits of the project that outweigh the adverse environmental impacts. (CEQA Guideline § 15093.) The Commission may not approve a project *other* than the environmentally superior alternative unless the mitigation measures or the alternative is infeasible. (CEQA Guideline § 15091.) Prior to approving the project or a project alternative, the lead agency must certify that the environmental review was conducted in compliance with CEQA, that the final EIR was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered the environmental review document prior to approving the project or a project alternative, and that the environmental review document reflects the lead agency's independent judgment and analysis. (Pub. Res. Code § 21082.1(c)(3), CEQA Guidelines § 15090.) Finally, if substantial changes are proposed in the project which will require major revisions of the prior EIR due to new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts, the lead agency must prepare a subsequent or supplemental EIR (SEIR). (CEQA Guidelines §§ 15162 and 15163.)

Accordingly, and as set forth in the assigned Commissioner's scoping memo and ruling, the issues to be determined in this proceeding are:[5]

1. What are the significant environmental impacts of the proposed project?

[5] CARE offered "rebuttal testimony" to the assigned Commissioner's scoping memo, challenging it as "nonsense" for rejecting CARE's contention that the scope of the proceeding should include the issue of whether the BLM is required to produce a supplemental environmental impact statement on the proposed project. CARE's "rebuttal testimony" on this issue is beyond the scope of the proceeding and is accorded no weight.

2. Are there potentially feasible mitigation measures that will eliminate or lessen the significant environmental impacts?

3. What is the environmentally superior alternative?

4. Was the SEIR completed in compliance with CEQA, did the Commission review and consider the SEIR prior to approving the project or a project alternative, and does the SEIR reflect the Commission's independent judgment?

5. Are the mitigation measures or project alternatives infeasible?

6. Are there overriding considerations that merit Commission approval of the proposed project or project alternative notwithstanding its unavoidable adverse environmental impacts?

7. Is the proposed project and/or project alternative designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?

4. Description of Project Alternatives

The SEIR evaluated SCE's proposed project, a "no project" alternative, and five alternative configurations: the Partial Avoidance Alternative, Avoidance Alternative #1, Avoidance Alternative #2, Avoidance Alternative #3, and the Southern Alternative.

The proposed project would be located approximately 1.5 miles south of Interstate 10 and 4.75 miles easy of Wiley Well Road, in the County of Riverside, California, on approximately 160 acres of public land located within a sand transport corridor. The proposed project would expand the previously-approved project from a 500 kilovolt (kV) substation on approximately 45 acres of land into a full 2240 megavolt ampere (MVA) 500/220 kV substation on approximately 90 acres of land.

The Partial Avoidance Alternative would be located southeast of the proposed project (and north of the DVP2 transmission corridor), also on public land within the sand transport corridor, but would reduce direct and indirect impacts to Mojave fringe-toed lizard sand dune habitat, ribbed cryptantha and Harwood's eriastrum, and would impact fewer total documented cultural resources than the proposed project.

Avoidance Alternative #1 would be located approximately 0.9 miles southeast of the proposed project (remaining north of the DPV2 transmission corridor), entirely outside of the sand transport corridor, on both public and private land.

Avoidance Alternative #2 would be located approximately 1.2 miles southeast of the proposed project (remaining north of the DPV2 transmission corridor), entirely outside of the sand transport corridor and entirely on private land.

Avoidance Alternative #3 would be located almost 1.9 miles southeast of the proposed project (remaining north of the DPV2 transmission corridor), entirely outside of the sand transport corridor and entirely on public land.

The Southern Alternative would be located approximately 0.75 miles south of the proposed project (south of the DPV2 transmission corridor), entirely outside of the sand transport corridor and entirely on public land.

Under the "no project" alternative, the Colorado River Substation would be constructed as approved by the Commission in D.07-01-040; it would not be expanded to enable interconnection to solar projects.

5. Significant and Unavoidable Environmental Impacts

The proposed project would have significant and unavoidable impacts on biological resources, cultural resources, and greenhouse gas emissions. Construction of the proposed project would result in indirect or direct loss of the Mojave fringe-toed lizard and its sand dune habitat, and would contribute to a cumulatively considerable impact on this species and its habitat. Construction of the proposed project would cause an adverse change to known historic properties, it could cause an adverse change to unknown significant buried prehistoric and historical archaeological sites or buried Native American human remains, and it could cause an adverse change to traditional cultural properties. Finally, project activities would cause a net increase of greenhouse gas emissions.

All of the alternative sites, except for the Partial Avoidance Alternative, would have less than significant biological impacts. However, all of the alternative sites would have significant and unavoidable impacts on cultural resources and greenhouse gas emissions similar to those of the proposed project.

6. Environmentally Superior Alternative

Avoidance Alternative #1 is the environmentally superior alternative due to its reduction of impacts to the Mojave fringe-toed lizard to less than significant with mitigation, and for having the least potential impact on rare plants.

The Southern Alternative is the next in order of environmental superiority because, while it also reduces impacts to the Mojave fringe-toed lizard to less than significant with mitigation, it has the potential to impact desert washes and desert kit foxes and a slightly greater number of unevaluated cultural resources (although these impacts would be less than significant with mitigation).

CARE argues that, contrary to the SEIR's conclusion that the Southern Alternative is next in order of environmental superiority, the SEIR demonstrates that the Southern Alternative is environmentally inferior to the Partial Avoidance Alternative, Avoidance Alternative #2, and Avoidance Alternative #3. CARE alleges that the SEIR describes only the Southern Alternative, and not Avoidance Alternatives #2 or #3, as having "small direct effects resulting from access road construction/widening and transmission tower foundations between the substation and DPV corridor." (SEIR, at Ap.1-26.) CARE misreads the SEIR, which more accurately states that Avoidance Alternatives #2 and #3 (like the Southern Alternative) would not have direct or indirect effects on the sand transport corridor "except for gen-tie lines and access roads." (Cf. SEIR, Ap. 1-26 (Southern Alternative), Ap.1-20 (Avoidance Alternative #2) and Ap. 1-23 (Avoidance Alternative #3).) CARE alleges that the SEIR describes the Southern Alternative as inferior to all other alternatives because it is the only alternative with "numerous potential jurisdictional washes on site" (SEIR, at F-8), and that the SEIR fails to propose any mitigation for impacts to them. CARE overlooks the SEIR's environmental analysis and proposed mitigation, which determined that the mitigation for jurisdictional washes included in the DPV2 EIR/EIS (Mitigation Measures B-1a[Prepare and implement Habitat Restoration/Plan]) would also mitigate any impacts to jurisdictional washes from construction and operation of the Southern Alternative. (SEIR, at D-59.)

We agree with the SEIR's judgment and analysis in reaching its conclusion that the Southern Alternative is environmentally superior to the Partial Avoidance Alternative, Avoidance Alternative #2 and Avoidance Alternative #3.

7. Certification of EIR

After the release of the Notice of Preparation of the SEIR in October 2010, the Commission's Energy Division held a 30-day public scoping period allowing the public and regulatory agencies an opportunity to comment on the scope of the environmental document and the alternatives considered, and to identify issues that should be addressed in the SEIR. Energy Division received seven comment letters during this scoping process, and the SEIR addresses the issues raised by them.

The Energy Division issued the draft SEIR on February 22, 2011, and solicited written comments on it. The draft SEIR was made available for review at repositories in Palm Springs, Blythe and Indio, as well as at CPUC headquarters in San Francisco. During the 45-day comment period, Energy Division received 11 written comments from public agencies, community groups, non-profit organizations, private companies, a private individual and SCE. Energy Division responded to all comments in the final SEIR, which it issued on April 29, 2011.

The SEIR was completed after notice and opportunity for public comment on the scope of the environmental review and the draft SEIR, as required by CEQA. The final SEIR documents all written and oral comments made on the draft SEIR, and responds to them, as required by CEQA. The SEIR identifies the proposed project's significant and unavoidable environmental impacts, mitigation measures that will avoid or substantially lessen them, and identifies Avoidance Alternative #1 as the environmentally superior alternative and the Southern Alternative as the next alternative in order of environmental superiority.

CARE asserts that the SEIR is inadequate for failing to provide an accurate, stable and consistent project description by inconsistently describing the project component acreage as roughly 160 acres and as significantly less than that, inconsistently describing the substation expansion area as 34 acres and as 45 acres, failing to identify all project access roads, and failing to identify the amount of land that will be disturbed by undergrounding the project's telecommunications infrastructure. To the contrary, the SEIR clearly refers to the 160-acre parcel as the entire area of the project and identifies the project components as covering approximately 90 acres of that parcel (SEIR, at B-2); it consistently identifies the area of permanent disturbance for the substation expansion as 34 acres and the total area of permanent disturbance for this expansion footprint as well as for stormwater detention basin (1.7 acres), drainage improvements (7.4 acres), driveways (1 acre), and telecommunications system (0.6 acre) as 45 acres (SEIR, at B-9 and Appendix 10); it identifies the proposed access roads (SEIR, at B-4); it specifies the location of the underground telecommunications conduit (SEIR, at B-17) and states that there will be no additional ground disturbance beyond the installation of this conduit (SEIR, at B-5).

CARE asserts that the Amended Biological Assessment, which is cited as a reference in the U.S. Fish and Wildlife Service's (USFWS) *Biological Opinion* appended to the SEIR, includes calculations of adversely affected special-status species habitat based on data from the original EIR and that this is evidence that the SEIR's project description is inadequate. To the contrary, the fact that the USFWS may have considered, among other information, data that predates this expansion project is not evidence that that the USFWS failed to assess, much less identify, the expansion project in preparing its Biological Opinion. Indeed, the

USFWS's *Biological Opinion* presents project impact acreages for DPV2 including the Colorado River Substation expansion area (SEIR, Appendix 10, Table 1.)

CARE asserts that the SEIR improperly incorporated documents into its analysis of impacts on biological resources that were not included in the draft and/or final SEIR. To the contrary, CEQA does not require that all documents cited in an EIR be included in an EIR. (CEQA Guidelines §§ 15148 and 15150(a).)

CARE asserts that, although the SEIR bases its biological analysis on the *Supplemental Information for the Genesis Solar Energy Project* (Appendix 8) and the *DPV2 Telecommunication System Route Biological Review* (Appendix 9), the draft SEIR improperly failed to include them, and the final SEIR improperly included them after the time for public review of the draft SEIR had passed. To the contrary, although the draft SEIR did not include them, it listed them as source documents for the environmental setting discussion and properly described and cited them, as permitted by CEQA Guidelines §§15148 and 15150(a). (SEIR, at D-5.)[6] While these appendices were added to the final SEIR to aid in the public review of the document, they had already been described and cited in the draft SEIR, did not add additional information, and were available for review during the 45-day comment period.

CARE makes the same assertion with respect to the USFWS's *Biological Opinion* (Appendix 10). However, neither the draft nor the final SEIR rely on this document for its biological analysis. The Biological Opinion is attached to the SEIR in reference to the permissible relocation distance for desert tortoises specified therein. (*See* SEIR, at I-63.)

[6] The final SEIR shows changes made to the draft SEIR by underlining inserted text and striking out deleted text.

CARE asserts that the SEIR is deficient for failing to specify where the referenced documents would be available for inspection, as required by CEQA Guidelines § 15150(b). Specifically, although the SEIR specifies that the draft and final SEIRs may be reviewed at the Commission's headquarters in San Francisco as well as three identified repository sites in Indio, Blythe, and Palm Springs, it does not specify or provide that the referenced documents would be available for inspection, either there or elsewhere. However, the SEIR provides an email contact address and the project website on the Commission's official website, which provides further email and telephone contacts for persons to request additional information. Indeed, CARE indicates in its opening brief that it was provided a copy of a referenced document upon request, which demonstrates that the SEIR's identification of contact information for obtaining additional information reasonably serves the intent and purpose, if not the letter, of CEQA Guidelines § 15150(b). The SEIR's failure to identify and provide repository sites for the referenced documents does not render the document legally deficient.

CARE asserts that the SEIR failed to consider actual biology surveys on the expansion site and relied instead on the analysis of biological impacts performed under the BLM's environmental impacts statements for the Blyth and Genesis Solar Projects. CARE misreads the SEIR. As it states, the SEIR also relied on new biological resource data that was collected at the proposed Colorado River Substation expansion site and vicinity. (*See* SEIR, at D-5 and at I-1 through I-3.)

CARE asserts that the SEIR impairs informed decision-making because it limits the relocation of the desert tortoise to 640 feet, and confuses the public and the decision-maker by characterizing this as the equivalent of 500 meters. CARE misreads the SEIR. The SEIR identifies a relocation distance of 1,640 feet, which is the equivalent of 500 meters. (SEIR, at D-18.)

CARE asserts that the SEIR is fatally defective because it does not specify the performance standard or criteria to be met in the future to ensure that mitigation measures necessary to ensure that impacts on the desert tortoise do not rise to a significant level will be in line with the USFWS's Biological Opinion, as promised in the *DPV2 Telecommunication System Route Biological Review*. CARE confuses the mitigation measures presented in the *DPV2 Telecommunication System Route Biological Review* (SEIR, Appendix 9) with the mitigation measures identified by the SEIR as required by CEQA. The desert tortoise mitigation measures B-1a, B-7b, and B-7c properly include performance standards to govern future actions. (SEIR, at D-16 through D-19.)

CARE asserts that the SEIR does not comply with CEQA because it has not considered a distributed-generation alternative. The SEIR reflects CARE's comments on the draft SEIR to this effect and provides a thorough and reasonable explanation of why it properly declined to include a distributed-generation in its analysis. CEQA requires that an EIR describe a reasonable range of alternatives that is potentially feasible, would feasibly attain most of the basic objectives of the project, and would avoid or substantially lessen any of the project's significant effects. (CEQA Guidelines § 15126.6(a).) The SEIR reasonably omits a distributed-generation alternative from the alternatives selected for detailed analysis because it would not meet two of the three project objectives, providing transmission access to potential future renewable resources in the Blythe area and serving other, approved solar projects in the Blythe area. (SEIR, at I-124.)

CARE asserts that the SEIR failed to identify and analyze growth-inducing impacts as required pursuant to Pub. Res. Code § 21100(b)(5) including, for example, the growth-inducing impact of potential mining operations that will be facilitated by the project's new access roads. To the contrary, the SEIR identifies and analyzes the potential for growth-inducing project effects including economic or population growth or the construction of additional housing (SEIR, Section G.1) and growth related to the provision of additional electric power (SEIR, Section G.1.2). With respect to CARE's assertion that the SEIR must consider the growth-inducing impacts of the project's new access roads, CARE's premise that the project will create new access roads is without merit as the substation expansion project would merely widen and improve an existing access road. (SEIR, at B-4.)

We have reviewed and considered the information contained in the SEIR, as well as parties' challenges to the adequacy of the SEIR. We certify that the final SEIR has been completed in compliance with CEQA, that the final SEIR was presented to us and that we have reviewed and considered the information contained in it, and that the final SEIR reflects our independent judgment and analysis.

8. Feasibility of Alternatives

CEQA defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Res. Code § 21061.1; CEQA Guidelines § 15364.)

8.1. Infeasibility of Avoidance Alternative #1

Avoidance Alternative #1 is infeasible because it cannot be accomplished in a successful manner within a reasonable period of time. Specifically, the likely time required to complete it poses a significant risk that the 1000 MW Blythe Solar Power Project and the 250 Genesis Solar Energy Project will be delayed and/or cancelled and, therefore, it would impede the ability of California to meet its renewable energy goals in a timely fashion.

The proposed substation expansion project has a planned operation date of May 6, 2013, which would enable the Blythe Solar Power Project and the Genesis Solar Energy Project to interconnect to the substation and begin commercial operation by November 2013 or earlier. Avoidance Alternative #1 would cause the substation's operation date to be delayed by at least six months due to its partial location on private lands and the need to redesign and reengineer the substation to the site, and would require the Blythe Solar Power Project and Genesis Solar Energy Project to acquire private land for the re-located gen-tie, which may not be possible due to their lack of eminent domain power. The expected delay will potentially prevent Blythe Solar Power Project from obtaining Department of Energy (DOE) financing and delay, if not cancel, the project, and would prevent the Genesis Solar Power Project from operating in time for the summer 2013 peak season, which would deprive Pacific Gas and Electric Company (PG&E) of renewable energy that would otherwise serve its renewable portfolio standard requirements in effect in 2013. The cancellation of the Blythe Solar Power Project would detract from the ability of California to meet its renewable energy goals, and the delay of either project would delay California's progress.

The proposed project is located entirely on public land, while Avoidance Alternative #1 is partly located on private land. While the proposed project site would require SCE to obtain permits and rights-of-way only from the BLM,[7] Avoidance Alternative #1 would require SCE to negotiate with the private land owners and to possibly initiate condemnation proceedings in order to obtain the properties. SCE's witness Brett Paulson testified that the process of preparing an offer to purchase and negotiate in good faith for the property is approximately a six-month process and that the process of pursuing possession through condemnation would require six to 12 months thereafter. (Ex. 1, at 12-15.)

Avoidance Alternative #1 would also require the Blythe Solar Power Project and the Genesis Solar Power Project to purchase property from private landowners for their gen-tie transmission lines connecting to the substation which, under the proposed project, would be located entirely on public land. As Solar Millennium and NextEra do not have the power of eminent domain, the possibility that the private landowners are not willing to grant the necessary rights at a reasonable price or at all poses the likelihood that the projects could not be completed.

In addition, since Avoidance Alternative #1 changes the orientation of the substation from that of the proposed project, SCE would require additional time to redesign and reengineer the substation at that site. Specifically, SCE would need to redesign the line and bus arrangements coming into both the 500 kV and 220 kV portions of the substation, which requires prior approval by several

[7] As the BLM has approved the Blythe Solar Power Project and the Genesis Solar Energy Project, it is reasonable to assume that the BLM will grant SCE the right to use the public lands under its management for this purpose.

different planning and operations departments within SCE; complete a geotechnical investigation to characterize surface and blow grade soil conditions (which would require approval from the private landowners to access the property to do the field work); and engineer the taller transmission towers that would likely be required in order to cross the FPL Buck-Julian Hinds 220 kV line to bring the 500 kV transmission lines into the substation at this site. SCE's witness Scott Lacy testified that this work would require approximately seven to ten months more than would be required for the proposed project. (Ex. 1, at 19-22.)

The development of the Blythe Solar Power Project is dependent upon a $2.1 billion loan to be guaranteed by the DOE pursuant to the loan guarantee program authorized pursuant to Section 1705 of Title XVII of the Energy Policy Act of 2005.[8] Section 1705 is a temporary program that authorizes federal loan guarantees and subsidies for, among other things, certain renewable energy projects that reach financial close by September 30, 2011. The DOE has identified the uncertainty regarding the in-service date of the Colorado River Substation as a material risk to the ability of the Blythe Solar Power Project to meet its commercial operation date, both for purposes of having the back feed power it requires prior to commercial operation and for purposes of being able to sell power to SCE upon commercial operation. The expected delay that would result from construction of Avoidance Alternative #1 will potentially prevent Blythe Solar Power Project from obtaining DOE financing and delay, if not cancel, the project. (Ex. 2, at 2-5.)

[8] Section 1705 was added to Title XVII by the American Recovery and Reinvestment Act of 2009.

Pursuant to a power purchase agreement between Genesis Solar and PG&E, the Genesis Solar Power Project is scheduled to begin commercial operation in May 2013, in time for the summer 2013 peak season. If the Genesis Solar Power Project is not able to operate in time to capture the summer peak revenues, it might be economic for Genesis Solar to delay and restart construction in order to be on-line before the summer 2014 peak season, which would deprive PG&E of renewable energy that would otherwise serve its renewable portfolio standard requirements in effect in 2013. (Ex. 3, at 4-5.)

In consideration of the fact that the likely time required to complete Avoidance Alternative #1 poses a significant risk that the 1000 MW Blythe Solar Power Project and the 250 MW Genesis Solar Energy Project will be delayed and/or cancelled and thereby impede the ability of California to meet its renewable energy goals in a timely fashion, we find that Avoidance Alternative #1 is infeasible.

SCE, NextEra and Solar Millennium argue that Avoidance Alternative #1 is also infeasible because it would not achieve SCE's stated project objective that the substation be constructed in time to allow it to interconnect with the Blythe Solar Power Project and Genesis Solar Power Project generation tie lines by the target dates established in the parties' Large Generator Interconnection Agreements (LGIA). To the contrary, the parties' inability to meet their contractual commitments is not determinative of the infeasibility of the environmentally superior project alternatives.

CARE argues in its reply brief that there is insubstantial evidence that it is infeasible for Avoidance Alternative #1 to meet the project objective of completing the substation in time to interconnect the approved solar power projects by their respective LGIA target dates, because the LGIA for the Blythe

Solar Power Project is not in the record, and because the LGIA for the Genesis Solar Power Project is still being negotiated. Because we find Avoidance Alternative #1 to be infeasible on other grounds, we do not reach these issues.

CARE challenges the assertion that SCE's acquisition of the private land required to implement Avoidance Alternative #1 will take considerable time by alleging that the land value in the area is relatively low and suggesting that SCE need only offer double its (allegedly) low value in order to timely achieve its objective. CARE offers no support for its allegation of the land value, and CARE's witness Michael Boyd does not identify any qualifications that demonstrate his expertise on the subject of land value.[9] Furthermore, while it is arguably likely that a private landowner might sell if offered twice the property's fair market value, Commission precedent would not allow SCE to recover unreasonable costs from ratepayers.

8.2. Southern Alternative

There is no evidence and no party asserts that the Southern Alternative, which is the next in preference in terms of environmental superiority, is infeasible.

The Southern Alternative would locate the substation and the generation tie lines entirely on public lands. Therefore, the Southern Alternative would not incur any delays attributable to the acquisition of land relative to the proposed project.

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[9] CARE witness Michael Boyd describes his qualifications as being a "[s]olutions oriented Engineer with a proven track record of effective component manufacturing development engineering in the medical device, microelectronics, telecommunication, semi-conductor, and hard drive industry."

The Southern Alternative would orient the substation in a manner that is very similar to the proposed project with respect to the routing of transmission and gen-tie lines. As a result, although the redesign and reengineering of the project at the Southern Alternative location would incur a delay of one to four months relative to the proposed project, it would be much reduced relative to the seven to 10 months that would be required to redesign and reengineer the project at the Avoidance Alternative #1 location.

Therefore, we find that the Southern Alternative is feasible and should be approved.

8.3. Remaining Alternatives and Proposed Project

Because the Southern Alternative is environmentally superior to Avoidance Alternative #2, Avoidance Alternative #3, the Partial Avoidance Alternative, the Proposed Project and the No Project Alternative and, because we approve the Southern Alternative, we need not reach conclusions as to the feasibility of the remaining alternatives.

9. Overriding Considerations

Pursuant to CEQA Guidelines §15093, the Commission may only approve a project that results in significant and unavoidable impacts upon a finding that there are overriding considerations. The Commission previously found that the DPV2 project as a whole will provide substantial benefits, in that it will provide significant economic benefits for CAISO ratepayers, increase the reliability of the interstate transmission network, increase operational flexibility, and provide insurance value as an economic hedge against low-probability, high-impact events, and that the DPV2 project's unavoidable impacts are acceptable in light of these substantial benefits, which constitute an overriding consideration

warranting approval of the project, despite each and every unavoidable impact. (D.07-01-040, at 96.) The Southern Alternative to the Colorado Substation Expansion project will modify the DPV2 project to enable the interconnection of new renewable energy resources in the Blythe area, such as the Blythe Solar Power Project and the Genesis Solar Energy Project, to the CAISO-controlled transmission grid, aiding in progress towards federal and state greenhouse gas reduction and renewable electricity goals, including the requirements set forth in the California Renewable Portfolio Standard Program,[10] Assembly Bill 32 (California Global Warming Solutions Act of 2006), the Governor's Executive Order S-14-08 to increase the state's Renewable Energy Standard to 33% renewable energy by 2020, and Title XVII, Section 1705, of the Energy Policy Act of 2005 (authorizing a new program for rapid deployment of, among other things, renewable energy projects). We find that the Southern Alternative Colorado Substation Expansion project's contribution to progress toward federal and state greenhouse gas reduction and renewable electricity goals, in conjunction with the overall DPV2 project's significant economic benefits for CAISO ratepayers, increased reliability of the interstate transmission network, increase operational flexibility, and insurance value as an economic hedge against low-probability, high-impact events, are overriding considerations that support our approval of the Southern Alternative Colorado River Substation

[10] The California Renewable Portfolio Standards Program was established by Senate Bill (SB) 1078 (Stats. 2002, Ch. 516, Sec. 3, codified as Pub. Util. Code §§ 399.11 *et seq.*, effective January 1, 2003). The Renewable Portfolio Standards Program or related elements have been amended several times, including by SB 107 (Stats. 2006, Ch. 464), Assembly Bill (AB) 1969 (Stats. 2006, Ch. 731), SB 1036 (Stats. 2007, Ch. 685), SB 380 (Stats. 2008, Ch. 544), SB 32 (Stats. 2009, Ch. 328), SB 695 (Stats. 2009, Ch. 337), and SB 2 (2011-12 First Extraordinary Session, Stats. 2011, Ch 1).

expansion project, despite its significant unavoidable impacts on cultural resources and cumulative greenhouse gas emissions.

SCE's witness Jorge Chacon also asserts that the project will provide additional benefits of (1) maximizing the use of the existing transmission system in the Blythe area by establishing an interconnection to it; (2) improving the reliability of the transmission grid following interconnection of new generation resources in compliance with reliability criteria requirement by the North American Electric Reliability Corporation, the Federal Energy Regulatory Commission, CAISO, and SCE's planning design guidelines and criteria; (3) allowing SCE to construct facilities in a manner that will minimize service interruptions and environmental impacts; and (4) create construction jobs. With respect to item (1), it is not apparent that establishing an interconnection to the existing transmission system is a benefit of the project so much as a description of it. With respect to items (2) and (3), it is not apparent that compliance with required reliability criteria and minimizing service interruptions and environmental impacts are benefits of the project so much as best business and legal requirements for its construction. With respect to item (4), while the creation of construction jobs is a societal and economic benefit, SCE does not offer evidence sufficient to identify the construction jobs in order to gauge whether they constitute a sufficient benefit to override the significant unavoidable impacts.

CARE challenges the assertion that the substation project will aid in progress towards federal and state greenhouse gas reduction and renewable electricity goals on the basis that there are other means of achieving these goals without impacting the environment, such as high levels of distributed generation. The fact that distributed generation has the potential to contribute to

this goal does not detract from the fact that the substation expansion project does so.

10. EMF

The Commission has examined EMF impacts in several previous proceedings.[11] We found the scientific evidence presented in those proceedings was uncertain as to the possible health effects of EMFs and we did not find it appropriate to adopt any related numerical standards. Because there is no agreement among scientists that exposure to EMF creates any potential health risk, and because CEQA does not define or adopt any standards to address the potential health risk impacts of possible exposure to EMFs, the Commission does not consider magnetic fields in the context of CEQA and determination of environmental impacts.

However, recognizing that public concern remains, we do require, pursuant to GO 131-D, Section X.A, that all requests for a PTC include a description of the measures taken or proposed by the utility to reduce the potential for exposure to EMFs generated by the proposed project. We developed an interim policy that requires utilities, among other things, to identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce the potential EMF impacts. The benchmark established for low-cost measures is four percent of the total budgeted project cost that results in an EMF reduction of at least 15 percent (as measured at the edge of the utility right-of-way).

[11] *See* D.06-01-042 and D.93-11-013.

The proposed project is designed to place its major substation electrical equipment (such as transformers, switchracks, buses, and underground duct banks) more than 1,250 feet from the nearest private property boundary. This design is consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.

11. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge 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 July 5, 2011, by CARE,[12] NextEra, and Solar Millenium and reply comments were filed on July 11, 2011, by NextEra, Solar Millenium, and SCE. We have considered the comments in finalizing this order.

12. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Hallie Yacknin is the assigned ALJ in this proceeding.

Findings of Fact

1. The proposed Colorado River Substation expansion project would have significant and unavoidable impacts on biological resources, cultural resources and greenhouse gas emissions.

2. All of the project alternatives, except for the Partial Avoidance Alternative, would have less than significant impacts on biological resources.

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[12] CARE's comments beginning at 16 through 22 are stricken for exceeding the allowable page limit pursuant to Rule 14.3(b) and for referencing evidence that is outside the record of the proceeding.

3. All of the project alternatives would have significant and unavoidable impacts on cultural resources and greenhouse gas emissions.

4. Avoidance Alternative #1 is the environmentally superior alternative due to its reduction of impacts to the Mojave fringe-toed lizard to less than significant with mitigation, and for having the least potential impact on rare plants.

5. The Southern Alternative is the next in order of environmental superiority because, while it also reduces impacts to the Mojave fringe-toed lizard to less than significant with mitigation, it has the potential to impact desert washes and desert kit foxes and a slightly greater number of unevaluated cultural resources (although these impacts would be less than significant with mitigation).

6. Although Avoidance Alternatives #2 and #3 would also both reduce impacts to the Mojave fringe-toed lizard to less than significant with mitigation, they are environmentally inferior to the Southern Alternative because they would still affect some lower quality sand dune habitat.

7. The Commission has reviewed and considered the information contained in the SEIR.

8. The SEIR reflects the Commission's independent judgment and analysis.

9. The likely time required to complete Avoidance Alternative #1 poses a significant risk that the 1000 MW Blythe Solar Power Project and the 250 MW Genesis Solar Energy Project will be delayed and/or cancelled and thereby impede the ability of California to meet its renewable energy goals in a timely fashion.

10. The Southern Alternative substation project will enable the interconnection of new renewable energy resources in the Blythe area, including the Blythe Solar Power Project and the Genesis Solar Energy Project, to the CAISO-controlled transmission grid, aiding in progress towards federal and state greenhouse gas reduction and renewable electricity goals, including the requirements set forth in Senate Bill 1078 (California Renewable Portfolio Standard Program), Assembly Bill 32 (California Global Warming Solutions Act of 2006), the Governor's Executive Order S-14-08 to increase the state's Renewable Energy Standard to 33% renewable energy by 2020, and Title XVII, Section 1705, of the Energy Policy Act of 2005 (authorizing a new program for rapid deployment of, among other things, renewable energy projects).

11. The proposed project design places the major substation electrical equipment (such as transformers, switchracks, buses, and underground duct banks) more than 1,250 feet away from the nearest private property boundary.

Conclusions of Law

1. The SEIR was completed in compliance with CEQA.

2. Avoidance Alternative #1 is infeasible because it poses significant risk that the 1000 MW Blythe Solar Power Project and the 250 MW Genesis Solar Energy Project will be delayed and/or cancelled and thereby impede the ability of California to meet its renewable energy goals in a timely fashion.

3. The Southern Alternative Colorado River Substation expansion project's contribution to California's progress towards federal and state greenhouse gas reduction and renewable electricity goals is an overriding consideration that supports our approval of it, despite its significant unavoidable impacts on cultural resources and cumulative greenhouse gas emissions.

4. The Southern Alternative Colorado Substation Expansion project's contribution to California's progress toward federal and state greenhouse gas reduction and renewable electricity goals, in conjunction with the overall DPV2 project's significant economic benefits for CAISO ratepayers, increased reliability of the interstate transmission network, increase operational flexibility, and insurance value as an economic hedge against low-probability, high-impact events, are overriding considerations that support our approval of the Southern Alternative Colorado River Substation expansion project, despite its significant unavoidable impacts on cultural resources and cumulative greenhouse gas emissions.

5. The proposed project design is consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.

6. SCE should be granted a permit to construct the Southern Alternative Colorado River Substation expansion project in conformance with the mitigation measures attached to this order.

7. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company is granted a Permit to Construct the Southern Alternative Colorado River Substation expansion project in conformance with the mitigation measures included as part of the final Supplemental Environmental Impact Report and attached to this order.
2. The mitigation measures, included as part of the final Supplemental Environmental Impact Report and attached to this order, are adopted.
3. Application 10-11-005 is closed.

This order is effective today.

Dated July 14, 2011, at San Francisco, California

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners