

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas & Electric Company)
for a Certificate of Public Convenience and)
Necessity authorizing the construction of the) Application 99-09-029
Northeast San Jose Transmission)
Reinforcement Project)
)

COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT

ProLogis Limited Partnership-I and ProLogis Trust (collectively “ProLogis”) hereby submit their comments on the Draft Environmental Report (“Draft EIR” or “Draft Report”) of Pacific Gas & Electric’s (“PG&E”) proposed Northeast San Jose Transmission Reinforcement Project (“Project”). As an initial matter, ProLogis fully supports the Draft EIR’s conclusion that the I-880-B Alternative is the environmentally superior route compared to PG&E’s proposed route. However, as demonstrated below, the Draft Report failed to give proper consideration, as required by the California Public Utilities Commission (“Commission”), to the negative effects that EMF radiation would have on businesses within Bayside Business Park under PG&E’s proposed route.

ProLogis agrees with the ultimate conclusion of the Draft EIR that the proposed route is not the environmentally superior route. With the exception discussed below, the Draft EIR considered the proper elements and afforded those elements the proper weight in reaching its determination that the route deemed the I-880-B Alternative is the preferable path for the transmission lines. Thus, although ProLogis believes that the Draft EIR needs to more fully consider the electromagnetic frequency (“EMF”) effects of the Project, no change should be made to the Draft EIR’s conclusion.

The factor that the Draft Report did not properly consider or weigh is the adverse effects of EMF radiation on the high-tech businesses in Bayside Business Park. Commissioner Henry M. Duque,

the assigned Commissioner to this proceeding, made it clear that the EMF effects that the proposed route will have on businesses are an issue in this proceeding. (See Assigned Commissioner's Ruling Establishing Category and Providing Scoping Memo, released February 28, 2000). Lest there be any confusion, the presiding Administrative Law Judge reiterated this fact in stating that “[t]he effect of the transmission lines proposed in this application on the high-tech businesses in the Bayside Business Park is within the scope of this proceeding.” (See Administrative Law Judge's Ruling Requiring Service of EMF Field Management Plan, released July 3, 2000).

Despite the fact that EMF interference was clearly required to be considered and gauged by the Draft EIR, the Draft EIR failed to accord EMF interference the proper consideration or weight.

The proposed Project from approximately mileposts 2.7 to 4.1 runs through the westerly edge of Bayside Business Park. Bayside Business Park, of which ProLogis is the principal property owner, is a planned business park of approximately 5 million square feet and primarily attracts high-technology companies.

From mileposts 4.1 to 4.9, the proposed path travels through the former Fremont Airport site. This parcel of land is undeveloped, but is zoned for development, and plans are underway to construct a business park on this land similar to Bayside Business Park, attracting the same type of high-tech businesses.

As the proposed Project passes through Bayside Business Park, it comes within close proximity of 23 buildings. By PG&E's own measurements, the transmission lines will come within 100 feet of over half of those buildings. (See Testimony of Dean Chapman, Chapter X, Attachment E).

Several tenants within Bayside Business Park already experience EMF problems from existing transmission lines which pass through the property. For example, tenants in the building at addresses 46700-46734 Fremont Boulevard consistently receive noticeable EMF interference on computer monitors and other electronic equipment from existing transmission lines. EMF readings taken at that building along the outside wall ranged from 15-30 mGs. Likewise, tenants in the building at the addresses 48430-48490 Lakeview Boulevard also continually receive noticeable EMF interference problems from the existing transmission lines. The EMF readings at that building indicated only 5-6 mG of EMF radiation. Thus, it is clear that it does not take significant levels of EMF radiation before the sophisticated equipment that is typically used by these high-tech businesses is noticeably and adversely affected.

The Draft EIR, in discussing the effects that PG&E's proposed path will have did not properly consider the negative effects that EMF radiation has on the sophisticated electronic equipment used by the high-tech businesses within Bayside Business Park. Although the Draft EIR correctly found that "[p]ower lines can also generate high frequency and EMF that can interfere with broadcast signals or electronic equipment," it failed to assess the affects that EMF would have on the business park tenants. (Draft EIR at ES-18). Instead, the Draft Report merely states that the EMF interference problems "can be resolved with a variety of measures, including relocation of the monitor, use of magnetic shield enclosures or replacement with liquid crystal displays that are not susceptible to magnetic fields." (Id.).

ProLogis takes issue with the Draft EIR's conclusion as to how EMF interference can be resolved. First, the Draft EIR makes absolutely no assessment regarding the degree to which businesses within Bayside Business Park will be subject to EMF radiation. As stated above, the

Commission has made it clear that EMF is an issue; consequently, the Draft EIR should give a full analysis of the EMF affects and the extent to which businesses would be expected to be affected, rather than merely stating that it can be resolved. As noted above, it does not takes significant EMF interference before sophisticated equipment can be adversely affected. Accordingly, the Draft EIR needs to provide a full discussion of the EMF effects that the proposed Project would have on businesses in Bayside Business Park in order to allow the Commission to make a reasoned determination of the preferable route.

Second, the Draft EIR places the burden of avoiding EMF interference on the high-tech business tenant. ProLogis does not believe that so placing the burden is on the tenant consistent with the Commission's requirement that EMF effects be investigated and considered in this proceeding. Moreover, the Draft EIR's bald assertion that the interference problems are easily solvable is not realistic. The Draft EIR's "solution" ignores the fact that the companies that would be affected by the Project in Bayside Business Park are, for the most part, high-tech companies. Therefore, the situation is not one where each tenant may only have to replace one or two word processors or buy shielding enclosures for a single piece of equipment. Indeed, the businesses that would be adversely affected use extensive sensitive and sophisticated equipment. The Draft Report could not seriously suggest that the high-tech companies in Bayside Business Park would have to replace all of their computers and other electronic equipment. In fact, considering the sophistication of some of the equipment used by these high-tech companies, there is nothing to suggest that magnetic shield enclosures or replacement equipment are even available for each piece of equipment used by Bayside Business Park tenants.

Accordingly, it is clear that the Draft EIR should not have overlooked the adverse affects that EMF interference has on these businesses' computers and other electronic equipment.

ProLogis believes that, consistent with the Commission's recognition the EMF effects are an issue that needs to be investigated and considered in this proceeding, the Draft EIR needs to consider the close proximity of the transmission lines in the proposed Project to high-tech businesses, and to weigh any effects that EMF interference from the Project will have on those businesses. The Draft EIR at no point made measurements of the distances between the proposed route and the buildings in Bayside Business Park along that route. Nor did the Draft EIR make any determinations as to what levels of EMF buildings along the proposed path should expect if the transmission lines are constructed along the proposed path. Likewise, at no point did the Draft EIR take EMF readings within Bayside Business Park along the existing transmission path. Thus, the Draft EIR did not consider, and provided the Commission with no information regarding, the cumulative EMF effects for the buildings in close proximity to the existing transmission path and the PG&E proposed path. In short, the Draft EIR made no attempt to assess any EMF issues specific to the proposed Project. In order for the Commission to properly appraise the EMF issue, such information is critical.

Similarly, the Draft EIR is deficient in failing to appropriately consider the EMF affects the proposed path will have on the development of currently undeveloped land at the former Fremont Airport. Because that property is the site of future development, it is necessary to consider the effects that the proposed path will have on that property as well. The assessment of EMF effects on this property should include consideration of alternative routes as well. The PG&E proposed transmission route would follow the planned extension of Fremont Boulevard through the middle of the property.

Therefore, the proposed path would likely pass within close proximity of the greatest number of possible buildings when the property is developed. By having the Project cross in front of the greatest number of possible buildings, the number of buildings that would be expected to experience negative EMF effects would, in turn, be maximized. Thus, alternative routes should be considered where the EMF affects would be minimized. For instance, a transmission path that follows either edge of the property would obviously be in close proximity to fewer potential buildings than a transmission path that passes through the center of the property. Likewise, a path that does not even enter the former Fremont Airport property obviously would not hamper development of that property, as compared to a transmission path that would create EMF interference hazards in an area for high-tech development. The Draft EIR needs to be reformed to both discuss the effects that EMF will have on the future development of this property as well as consider alternative routes where the negative EMF affects will be minimized or eliminated. If an alternative exists that is environmentally superior, information regarding that superior path needs to be provided to the Commission in order to allow the Commission to base its decision on all relevant information.

In conclusion, ProLogis supports the finding of the Draft EIR that the I-880-B Alternative is the environmentally superior route. In that regard, ProLogis fully agrees with the Draft Report that the PG&E proposed route is not the best route for the Project. However, the Draft EIR was deficient in failing to fully consider the extent of the adverse effects EMF will have on the businesses in Bayside Business Park and failing to make any findings with regard to EMF effects specific to the proposed route. The Draft EIR needs to be revised to fully consider the specific EMF effects of the proposed path. Doing so will make the differences between the PG&E proposed path and the I-880-B

Alternative even more stark. Likewise, the Draft EIR needs to be revised to consider specific EMF effects that the proposed path will have on the future development of the former Fremont Airport property and to consider alternative paths. All of this information is critical for the Commission to make a reasoned decision.

Respectfully submitted

ProLogis Limited Partnership-I
ProLogis Trust

By: _____
One of its Attorneys

Christian F. Binnig
Joseph Paul Weber
MAYER, BROWN & PLATT
190 South LaSalle Street
Chicago, Illinois 60603
(312) 782-0600

Michael F. Kerr
John Nadolenco
MAYER, BROWN & PLATT
350 South Grand - 25th Floor
Los Angeles, California 90071
(213) 229-9500