

Decision 09-10-049 October 29, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company, a California corporation, for a Permit to Construct the Seventh Standard Substation Project pursuant to General Order 131-D (U39E).

Application 09-03-004
(Filed March 2, 2009)

**DECISION GRANTING PERMIT TO CONSTRUCT
THE SEVENTH STANDARD SUBSTATION PROJECT**

1. Summary

This decision grants the request of Pacific Gas and Electric Company (PG&E) for a permit to construct, pursuant to General Order 131-D, the proposed project known as the Seventh Standard Substation Project (Proposed Project) within PG&E's "Urban Bakersfield Northwest Distribution Planning Area." The approval is subject to PG&E's compliance with the Mitigation Monitoring Plan which is part of the Final Mitigated Negative Declaration prepared for the Proposed Project.

The Proposed Project will serve an area that includes the City of Shafter, a northwestern portion of the City of Bakersfield, and portions of rural Kern County.

The Proposed Project includes the following primary components:

- a new, three-bank 115/21 kilovolt (kV) low-profile distribution substation (at ultimate build out);
- six to nine distribution circuits (at ultimate build out) as a combination of overhead conductors and underground cable in conduit;

- approximately 1,000 feet of overhead double-circuit 115 kV power line on three tubular steel poles, running within the access road from the existing Rio Bravo-Kern Oil 115 kV Power Line area that parallels Seventh Standard Road and ending at the substation; and
- a 700-foot paved access road to the substation from Seventh Standard Road.

The Commission is the Lead Agency for environmental review, and the decision also finds that the Final Mitigated Negative Declaration meets the requirements of the California Environmental Quality Act.¹

This proceeding is closed.

2. Background

PG&E is an investor-owned public utility corporation; its principal business involves provision of gas and electric services in California. The PG&E distribution planning area at issue is the “Urban Bakersfield Northwest Distribution Planning Area,” which includes the City of Shafter, a northwestern portion of the City of Bakersfield, and portions of rural Kern County.

Four major substations serve this distribution planning area at present: Renfro, Kern Power, Fruitvale, and Rosedale. All are built out to maximum capacity under the current transmission system configuration and therefore cannot pick up additional load as electrical demand in the area increases.

PG&E reports that demand in this distribution planning area continues to grow in spite of the current economic downturn. The source of the growth includes both residential and commercial development (in various planning, approval, or construction stages), as well as demand from agricultural pumps

¹ Public Resources Code Sections 21000, *et seq.*

and oil production operations. Peak demand now registers 215.3 megawatts (MW) and PG&E forecasts it will increase to 283.6 MW in 2010, which would exceed the capacity of the area by 31.6 MW (or 12.5%).

3. The Proposed Project

PG&E asks the Commission to grant a permit to construct (PTC) for the Proposed Project to enable PG&E to serve the increased demand forecast in the Urban Bakersfield Northwest Distribution Planning Area. The major components of the Proposed Project consist of a new substation, a transmission interconnection with the existing Rio Bravo-Kern Oil 115 kV Power Line, new distribution lines, and development of staging areas and temporary and permanent access to the new substation. Described in greater detail, the components consist of:

1. a new, three-bank 115/21 kV low-profile distribution substation (at ultimate build out);
2. three 45-megavolt-ampere transformers, initially with two to three distribution circuits per transformer and ultimately up to nine distribution circuits, all in underground conduit and either remaining underground or transitioning to the overhead position (at ultimate build out);
3. one double-circuit, 115 kV looped power line on three tubular steel poles, approximately 1,000 feet long, constructed within the access road area for the new substation and running from the dead-end structures in the substation to the existing Rio Bravo-Kern Oil 115 kV power line that parallels Seventh Standard Road; and

4. a 700-foot paved access road to the substation from Seventh Standard Road.²

No feasible alternatives to the Proposed Project exist since existing infrastructure is located too far from the area to enable load transfers.

4. Notice and Procedural Issues

Due process requires that affected parties be provided adequate notice and opportunity to be heard, such that they can timely protest and participate in the Commission's environmental review and analysis of the Proposed Project. For PTCs, the utility must comply with notice requirements described in General Order (GO) 131-D, Section XI.A. In pertinent part, Section XI.A requires the following forms of notice:

1. By direct mail to:
 - a. The planning commission and the legislative body for each county or city in which the proposed facility would be located, the CEC, the State Department of Transportation and its Division of Aeronautics, the Secretary of the Resources Agency, the Department of Fish and Game, the Department of Health Services, the State Water Resources Control Board, the Air Resources Board, and other interested parties having requested such notification. The utility shall also give notice to the following agencies and subdivisions in whose jurisdiction the proposed facility would be located: the Air Pollution Control District, the California Regional Water Quality Control Board, the State Department of Transportation's District Office, and any other State or Federal agency which would have jurisdiction over the proposed construction; and

² Application at 3-6 and Appendix A (Proponent's Environmental Assessment (PEA)), Chapter 1.

- b. All owners of land on which the proposed facility would be located and owners of property within 300 feet of the right-of-way as determined by the most recent local assessor's parcel roll available to the utility at the time notice is sent; and
2. By advertisement not less than once a week, two weeks successively, in a newspaper or newspapers of general circulation in the county or counties in which the proposed facilities will be located, the first publication to be not later than ten days after filing of the application; and
3. By posting a notice on-site and off-site where the project would be located.

In declarations filed on March 17, 2009, PG&E represents that it has complied with all applicable notice requirements. The Application itself was noticed in the Commission's Daily Calendar on March 5, 2009, and no protests were filed.

5. Requirements for a PTC

GO 131-D defines an electric "power line" as one designed to operate between 50 kV and 200 kV,³ and Section III.B of the GO requires utilities to first obtain Commission authorization, in the form of a PTC, before beginning construction of a power line. PTC applications for power lines need not include a detailed analysis of purpose and necessity, a detailed estimate of cost and economic analysis, a detailed schedule, or a detailed description of construction methods (beyond that required for compliance with the California Environmental Quality Act (CEQA)).⁴ However, GO 131-D requires PTC applications to:

³ GO 131-D, Section I.

⁴ GO 131-D, Section IX.B.1.f.

1. Include a description of the proposed facility and proposed construction schedule, a map, reasons the route was selected, positions of the government agencies which have undertaken review of the project, and a PEA;⁵
2. Show compliance with the provisions of the CEQA related to the Proposed Project, including the requirement to meet various public notice provisions;⁶ and
3. Describe the measures to be taken or proposed by the utility to reduce the potential for exposure to electric and magnetic fields (EMFs) generated by the Proposed Project.⁷

We discuss these requirements below.

6. Proposed Facilities Description and Related Requirements

In Section 3, above, we list the components of the Proposed Project, as described in the Application and PEA. The PEA and Exhibit B to the Application include maps that show the Proposed Project's location within the distribution planning area and a detailed layout of the substation and other Project components. The PEA also describes the criteria used to select the substation site from among six alternatives: proximity to electric load center; proximity to existing electrical distribution center; compatibility with existing adjacent land uses; ability to meet forecast electrical demand, based on uses approved or future development planned by local agencies; potential for environmental impacts; cost; and willingness of property owner to sell. The site selected meets these criteria.

⁵ GO 131-D, Section IX.B.1.a.-e.

⁶ GO 131-D, Section IX.B.2-5.

⁷ GO 131-D, Section X.

The objectives for the Proposed Project are the continued provision of safe, reliable electrical service within the distribution planning area. The Proposed Project will avoid the electric overloads expected in 2010 absent construction of the Project.

The Application includes a list of governmental agencies that have reviewed the Proposed Project.⁸ These agencies include the cities of Shafter and Bakersfield, Kern County, and the California Independent System Operator Corporations (ISO). Exhibit D to the Application is the recent Mitigated Negative Declaration (MND) that Bakersfield prepared for a planning zone change (from agricultural to limited multi-family dwelling) for the area in which the substation will be built. Though neither City protested the Application, each raised various concerns, which PG&E has addressed. (In Section 7.6, below, we specifically reference the mitigations that Bakersfield requires and which are subsumed in our approval.) Both cities and Kern County support the Proposed Project, as does ISO. In January 2008, the ISO approved interconnection of the Proposed Project with the ISO-controlled transmission grid. A portion of ISO's approval is reproduced in Exhibit E to the Application.

PG&E also informed the Native American Heritage Commission (NAHC) of the Application and the correspondence between them is in Appendix C to the PEA. While there are no known Native American cultural resources on the site, NAHC has observed that cultural resources could be discovered during construction.

⁸ Application at 8-10.

Upon Commission approval, PG&E contemplates that construction of the Proposed Project will take approximately six months, with work generally occurring during daylight hours on weekdays.

7. Environmental Review

CEQA requires that the Commission consider the environmental consequences before acting upon or approving the Proposed Project.⁹ Under CEQA, the Commission must act as either the Lead Agency or a Responsible Agency for project approval. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the Proposed Project as a whole.¹⁰ Here, the Commission is the Lead Agency. Below we discuss the steps and actions taken to complete environmental review of the Proposed Project, in accordance with GO 131-D and CEQA.

7.1. PEA

As stated above, PG&E filed its PEA as part of the Application. In addition to the description of the Proposed Project, the PEA evaluates the environmental impacts that may result from the construction and operation of the Proposed Project and proposes certain mitigation measures. The PEA concludes that with those mitigations, the Proposed Project will result in a less than significant impact, or no impact, on every resource category for which CEQA requires analysis.

In particular, construction and operation of the substation will remove approximately five acres of potential foraging and migration habitat for the

⁹ CEQA Guidelines, Section 15050(b).

¹⁰ CEQA Guidelines, Section 15051(b).

San Joaquin kit fox, a federally listed endangered species and state listed threatened species. PG&E has proposed adherence to the terms of the Metropolitan Bakersfield Habitat Conservation Plan in order to avoid significant impacts to this biological resource.

We consider each of these applicant-proposed mitigation measures to be part of the Proposed Project. Our approval of the PTC necessarily incorporates each of these mitigation measures in the Proposed Project's description.

7.2. Draft Initial Study/Mitigated Negative Declaration

The Commission's Energy Division (Energy Division) reviewed PG&E's PEA and on April 1, 2009, informed PG&E by letter that the Application was deemed complete for purposes of reviewing environmental impacts. Energy Division then began preparing an Initial Study (IS). The IS determined the Proposed Project will not have a significant adverse impact on the environment, conditioned on incorporation of specific, feasible mitigation measures in addition to those proposed in the PEA.

On August 11, 2009, the Energy Division released for public review a Proposed MND and Supporting Initial Study (Draft MND/IS) for the Proposed Project. The Draft MND/IS found that approval of the Proposed Project will have no environmental impact in the following areas: agricultural resources, geology/soils, hydrology/water quality, mineral resources, population/housing, public services, recreation, and utilities/service systems. The Draft MND/IS also determined that, with mitigation incorporated, approval of the Proposed Project will result in less than significant impacts in the following resource areas: aesthetics, air quality, biological resources, cultural resources, hazards and hazardous materials, land use/planning, noise, and transportation/traffic.

7.3. Mitigation Monitoring Plan

As required by CEQA, the Draft MND/IS included a Mitigation Monitoring Plan (MMP). The MMP describes the mitigation measures PG&E must implement as part of the Proposed Project, the actions required to implement each mitigation measure, how implementation will be monitored, and the timing of implementation for each mitigation measure. The Commission uses the MMP as a guide for expected performance and requires Commission-designated environmental monitors to record such performance. PG&E has agreed to each of the mitigations in the plan. Consistent with CEQA, we adopt the final statement of the MMP (see Section 7.6, below) as part of our approval of the Proposed Project.¹¹

7.4. Electric and Magnetic Fields

The Commission has examined EMF impacts in several previous proceedings.¹² In those proceedings, the Commission found the scientific evidence on the possible health effects of EMFs to be inconclusive and accordingly determined it would be inappropriate to adopt any standards such as numerical tolerances. Likewise, CEQA does not define or adopt such standards. For these reasons, the Commission does not consider EMFs in the context of its review of a Proposed Project's environmental impacts.

However, recognizing that public concern remains, the Commission has established an interim policy, memorialized in GO 131-D, Section X.A. All requests for a PTC must include a description of the measures a utility has taken

¹¹ CEQA Guideline, Section 15074(d).

¹² See Decision (D.) 06-01-042 and D.93-11-013.

or proposes to take to reduce the potential for exposure to EMFs generated by the Proposed Project. Among other things, a utility must identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce potential EMF impacts. The benchmark established for low-cost measures is 4% of the total budgeted project cost that results in an EMF reduction of at least 15% (as measured at the edge of the utility right-of-way).

PG&E's Application identifies four measures that have been incorporated into the design guidelines to reduce EMF strength levels from the new electric power facilities:

- Compacting the equipment spacing within the substation;
- Installing low-side metal clad switchgear to reduce low-side bus phase spacing from three feet (typically used in low-profile buses) to one foot, thereby reducing EMF contribution from the 21 kV bus;
- Use of underground 21 kV feeder terminations to the property limit to reduce EMF strength outside of the substation;
- Increasing the height of overhead lines to reduce EMF strength at ground level.

The Application also includes, as Exhibit F, a Substation Checklist Field Management Plan (FMP), which indicates that PG&E will incorporate all measures listed in the FMP. We adopt the FMP as part of our approval of the Proposed Project and require PG&E to comply with it.

7.5. Public Notice and Review

On August 11, 2009, the Energy Division published a Notice of Intent to Adopt a MND, and released the Draft MND/IS for a 30-day public review and comment period.

The Draft MND/IS was distributed to federal, state and local agencies; property owners within 300 feet of the Proposed Project; and other interested parties (identified in the Draft MND/IS). A Public Notice of the Proposed Project also was published in the local newspaper, announcing the availability of the Draft MND/IS. The 30-day public review and comment period ended on September 14, 2009.

Comment letters on the Draft MND/IS were received from the Bakersfield Development Services Department, the City of Shafter, and from PG&E. Those comments and the Commission's responses to those comments are contained in the Final MND.

7.6. Final MND

A Final MND was prepared pursuant to CEQA guidelines and released by the Energy Division on October 16, 2009. The Final MND addresses all aspects of the Draft MND/IS, includes the comments received on the Draft MND/IS and the responses to those comments by the Lead Agency (authored by the Commission's Energy Division), and includes a final statement of the MMP.

The Final MND does not identify any new significant environmental impacts and does not omit any mitigation measures identified in the Draft MND/IS. The revisions made clarify and revise certain mitigation measures described in the Draft MND/IS and in particular, specifically incorporate the mitigation measures Bakersfield adopted as part of its zoning change for the area where the new PG&E substation will be built. All mitigation measures are set forth in the MMP which is Section C to the Final MND.

The Final MND concludes that the Proposed Project will not have a significant adverse impact on the environment because the mitigation measures described therein, which PG&E has agreed to and incorporated into the

Proposed Project, will ensure that any potentially significant impacts that have been identified with the Proposed Project will remain at less than significant levels.

We must consider the Final MND before granting the Application.¹³ We have done so and find that the Final MND (which incorporates the Draft MND/IS) was prepared in compliance with and meets the requirements of CEQA. We further find that on the basis of the whole record, there is no substantial evidence that the Proposed Project, as mitigated consistent with the MMP, will have a significant effect on the environment. The Final MND reflects the Commission's independent judgments and analysis.¹⁴ We adopt the Final MND in its entirety, and incorporate it by reference in this decision approving the Proposed Project.

The Final MND is available for inspection on the Commission's website at: <http://www.cpuc.ca.gov/Environment/info/aspen/seventhstandard/seventhstandard.htm>.

8. Identification and Receipt of Reference Exhibits

On our own motion, we find that the Draft MND/IS and the Final MND, respectively, should be identified, marked, and received into the record of this proceeding as Reference Exhibits A and B.

9. Conclusion

Based on the analysis of the Initial Study, the Draft and Final MNDs, and the final statement of mitigation measures set forth in the MMP, which is Section C to the Final MND, we find that the Proposed Project will not have a

¹³ CEQA Guideline, Section 15004(a).

¹⁴ CEQA Guideline, Section 15074(b).

significant impact on the environment. We have reviewed the Application and, after considering all of the above requirements, find it complete and in compliance with GO 131-D.

We conclude that granting this PTC is in the public interest and that the Application should be approved. Our order today adopts the Final MND (which incorporates the Draft MND/IS), subject to all mitigations set forth in the Final MND. Before commencing construction of the Proposed Project, PG&E must secure all required permits, easements, or other legal authorization to develop the Project.

10. Waiver of Comment Period

No protests were filed to the Application and no hearing was held. Today's decision grants the relief requested in an uncontested matter. Accordingly, pursuant to Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

11. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Jean Vieth is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. PG&E's Application for a PTC conforms to GO 131-D.
2. The Proposed Project includes: (a) a new, three-bank 115/21 kV low-profile distribution substation (at ultimate build out); (b) three 45-megavolt-ampere transformers, initially with two to three distribution circuits per transformer and ultimately up to nine distribution circuits, all in underground conduit and either remaining underground or transitioning to the overhead position (at ultimate build out); (c) one double-circuit, 115 kV looped power line

on three tubular steel poles, approximately 1,000 feet long, constructed within the access road area for the new substation and running from the dead-end structures in the substation to the existing Rio Bravo-Kern Oil 115 kV Power Line that parallels Seventh Standard Road; and (d) a 700-foot paved access road to the substation from Seventh Standard Road.

3. The Proposed Project will avoid the electric overloads in the distribution planning area expected in 2010 absent construction of the Project.

4. No protests to the Application were filed.

5. The Final MND for the Proposed Project (which incorporates the Draft MND/IS) conforms to the requirements of CEQA.

6. The Final MND identifies no significant environmental impacts from the Proposed Project that could not be avoided or reduced to non-significant levels by the mitigation measures described therein.

7. On the basis of the whole record, there is no substantial evidence that the project will have a significant effect on the environment.

8. The MMP, included as Section C to the Final MND, specifically describes the mitigation measures PG&E must take.

9. PG&E agrees to comply with the mitigation measures described in the Final MND.

10. The Commission considered the Final MND in deciding to approve the Proposed Project.

11. The Final MND reflects the Commission's independent judgment.

12. Based on the mitigation measures included in the Final MND, the Proposed Project will not have a significant impact upon the environment.

13. The Proposed Project includes no-cost and low-cost measures (within the meaning of D.93-11-013, and D.06-01-042) to reduce possible exposure to EMF.

14. The Draft MND/IS and the Final MND, respectively, should be identified, marked, and received into the record of this proceeding as Reference Exhibits A and B.

Conclusions of Law

1. PG&E represents that it has complied with the notice requirements for PTCs described in GO 131-D, Section XI.
2. The Application is uncontested and evidentiary hearings are not necessary.
3. The Commission is the Lead Agency for compliance with the provisions of CEQA.
4. A Draft MND/IS analyzing the environmental impacts of the Proposed Project was prepared in compliance with CEQA.
5. A Final MND on the Proposed Project was processed and completed in compliance with the requirements of CEQA.
6. The Draft MND/IS and the Final MND (which includes the MMP) should be adopted in their entirety.
7. Possible exposure to EMF has been reduced by the no-cost and low-cost measures PG&E will include in the Proposed Project that are specified in Section C of the Final MND, pursuant to D.93-11-013, and D.06-01-042.
8. PG&E should obtain all necessary permits, easement rights or other legal authorization to develop the Proposed Project prior to commencing construction.
9. PG&E's Application for a PTC should be approved, subject to the mitigation measures set forth in the Final MND.
10. The requirement for a 30-day period for public review and comment should be waived, pursuant to Rule 14.6(c)(2).
11. A.09-03-004 should be closed.

12. This order should be effective immediately so that construction of the Proposed Project can begin.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company is granted a Permit to Construct the Seventh Standard Substation Project, including: (a) a new, three-bank 115/21 kilovolt (kV) low-profile distribution substation (at ultimate build out); (b) three 45-megavolt-ampere transformers, initially with two to three distribution circuits per transformer and ultimately up to nine distribution circuits, all in underground conduit and either remaining underground or transitioning to the overhead position (at ultimate build out); (c) one double-circuit, 115 kV looped power line on three tubular steel poles, approximately 1,000 feet long, constructed within the access road area for the new substation and running from the dead-end structures in the substation to the existing Rio Bravo-Kern Oil 115 kV Power Line that parallels Seventh Standard Road; and (d) a 700-foot paved access road to the substation from Seventh Standard Road.

2. The Draft Mitigated Negative Declaration/Initial Study and the Final Mitigated Negative Declaration, respectively, are identified, marked, and received into evidence as Reference Exhibit A and Reference Exhibit B.

3. The Final Mitigated Negative Declaration (which incorporates the Draft Mitigated Negative Declaration/Initial Study) is adopted pursuant to the requirements of the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.*

4. The Mitigation Monitoring Plan, included as part of the Final Mitigated Negative Declaration, is adopted.

5. The Permit to Construct is granted subject to Pacific Gas and Electric Company's compliance with the mitigation measures set forth in the Mitigation Monitoring Plan, which is Section C to the Final Mitigated Negative Declaration.

6. Pacific Gas and Electric Company must secure, prior to commencing construction, all of the necessary permits, easements rights, or other legal authorization to develop the Seventh Standard Substation.

7. The comment period for today's decision is waived.

8. Application 09-03-004 is closed.

This order is effective today.

Dated October 29, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners