

Decision 19-01-011 January 10, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In The Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY (U902E) for a Permit to Construct The Tie Line 649 Wood-to-Steel Replacement Project.

Application 15-08-006

DECISION GRANTING SAN DIEGO GAS & ELECTRIC COMPANY A PERMIT TO CONSTRUCT THE TIE LINE 649 WOOD-TO-STEEL REPLACEMENT PROJECT

Summary

This decision grants San Diego Gas & Electric Company a permit to construct the Tie Line 649 Wood-to-Steel Replacement Project.

1. Proposed Project

On August 10, 2015, San Diego Gas & Electric Company (SDG&E) filed an application for a Permit to Construct (PTC) the Tie Line 649 Wood-to-Steel Replacement Project (Proposed Project). The Proposed Project involves reconstructing a 7-mile portion of the 69 kilivolt (kV) single-circuit TL 649 in the Otay Mesa area of southeast San Diego County, just north of the United States - Mexican border. The Proposed Project includes replacement of approximately 132 existing wood poles with 117 new steel poles, within the existing

right-of-way, for increased fire safety and service reliability¹, as well as minimizing adverse environmental impacts.

2. Procedural Background

On August 10, 2015, San Diego Gas & Electric Company (SDG&E) filed its application. On September 2, 2015, SDG&E filed a Compliance Filing including declarations of advertising, posting, and mailing to affected governmental bodies and property owners to give notice of the application, as required by General Order (GO) 131-D, Section XI. On September 22, 2015, the Public Advocates Office² (Cal Advocates) filed a Protest raising questions about the need, reasonableness, and justification for SDG&E's Proposed Project. A prehearing conference (PHC) was held on October 11, 2018. SDG&E was the only party in attendance at the PHC. The scoping memo was issued October 25, 2018.

On May 16, 2018, the Commission circulated a Notice of Intent to adopt the Draft Initial Study and Mitigated Negative Declaration (IS/MND) for a 30-day public and agency review, in compliance with the California Environmental Quality Act (CEQA) and California Public Utilities Commission Rule 2.4. Additionally on this date, the availability of the Draft IS/MND was announced on the Commission's website and in local newspapers³ and copies of the document were made available on the Commission's website and a local library.

¹ Application 15-08-006 at 1.

² Formerly Office of Ratepayers (ORA).

³ Local refers to the locality where the construction would take place – Chula Vista, City of San Diego and unincorporated San Diego County area.

During the review period for the Draft IS/MND, the Commission received comments from two public agencies: California Department of Fish and Wildlife and the California Department of Transportation.⁴ The comments were addressed in a Final IS/MND which was issued on October 5, 2018.⁵

3. Scope of Issues

Pursuant to GO 131-D, in order to issue a Permit to Construct, the Commission must find that the project complies with CEQA. CEQA requires the lead agency to conduct a review of the project to identify environmental impacts and mitigation measures to avoid or minimize potential environmental impacts. If the initial study shows there is no substantial evidence that the proposed project may have a significant effect on the environment, or if the initial study identifies potentially significant effects and the project proponent makes or agrees to revisions to the project plan that will reduce all project-related environmental impacts to less than significant levels, then the lead agency shall prepare a negative declaration or MND, subject to public notice and the opportunity for the public review and comment. (CEQA Guidelines § 15070-15073.) Prior to approving the project or a project alternative, CEQA requires the lead agency to consider the MND and any comments received during the public/agency review process. The lead agency can adopt the MND only if it finds, on the basis of the whole record, that there is no substantial evidence the project will have a significant effect on the environment, and that the MND reflects the lead agency's independent judgment and analysis.

⁴ Final IS/MND, Appendix P at 2.

⁵ *Ibid.* at 21.

(CEQA Guidelines § 15074(a)-(b).) If the lead agency adopts the MND, CEQA also requires the lead agency to adopt a program for mitigation monitoring and/or reporting the measures required to mitigate or avoid significant environmental effects. (CEQA Guidelines § 15074(d).)

In addition, pursuant to GO 131-D and Decision (D.) 06-01-042, the Commission will not certify a project unless its design is in compliance with the Commission's policies governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures.

As described previously, the Commission has prepared a Final IS/MND for the proposed project. Accordingly, the following issues will be determined in this proceeding:

1. Is there no substantial evidence based on the Initial Study that the proposed project will have a significant effect on the environment?
2. Was the IS/MND completed in compliance with CEQA and does the MND reflect the Commission's independent judgment?
3. Is the proposed project designed in compliance with the Commission's policies governing the mitigation of Electric and Magnetic Fields (EMF) effects using low-cost and no-cost measures?

4. Environmental Impacts

The Proposed Project will have either no significant impacts or less than significant impacts with respect to agricultural resources,⁶ land use and planning,⁷ mineral resources,⁸ population and housing,⁹ public services,¹⁰ recreation,¹¹ and utilities and service systems.¹²

⁶ Final IS/MND, Section 2.2 at 2-25 to 2-30.

⁷ *Ibid.* Section 2.10 at 2-229 to 2-240.

The proposed project has potentially significant impacts with respect to aesthetics,¹³ air quality,¹⁴ greenhouse gas emissions,¹⁵ biological resources,¹⁶ cultural resources,¹⁷ hazards and hazardous materials,¹⁸ geology and soils,¹⁹ hydrology and water quality,²⁰ noise,²¹ and transportation and traffic.²² However, with the implementation of the mitigation measures identified in the in the Final IS/MND, the potentially significant impacts are reduced to less than significant levels.²³

5. EMF

The Commission examined EMF impacts in several previous proceedings and requires measures to be taken to reduce EMF exposure to public for all new

⁸ *Ibid.* Section 2.11 at 2-241 to 2-244.

⁹ *Ibid.* Section 2.13 at 2-271 to 2-274.

¹⁰ *Ibid.* Section 2.14 at 2-275 to 2-282.

¹¹ *Ibid.* Section 2.15 at 2-283 to 2-286.

¹² *Ibid.* Section 2.17 at 2-307 to 2-312.

¹³ *Ibid.* Section 2.1 at 2-3 to 2-24.

¹⁴ *Ibid.* Section 2.3 at 2-31 to 2-42.

¹⁵ *Ibid.* Section 2.7 at 2-183 to 2-190.

¹⁶ *Ibid.* Section 2.4 at 2-43 to 2-144.

¹⁷ *Ibid.* Section 2.5 at 2-145 to 2-166.

¹⁸ *Ibid.* Section 2.8 at 2-191 to 2-206.

¹⁹ *Ibid.* Section 2.6 at 2-167 to 2-182.

²⁰ *Ibid.* Section 2.9 at 2-207 to 2-228.

²¹ *Ibid.* Section 2.12 at 2-245 to 2-270.

²² *Ibid.* Section 2.16 at 2-287 to 2-306.

²³ Mitigation and Monitoring and Reporting Plan including mitigation measures identified in Appendix C to the Tie Line 149 Wood-to-Steel Replacement Project IS/MND (Attachment 1).

or upgraded electrical power and transmission projects.²⁴ CEQA does not define or adopt any standards to address the potential health risk of EMF exposure and the Commission does not consider EMFs in the context of CEQA or environmental impact determination. However, recognizing that public concern remains, we do require, pursuant to GO 131-D, Section X.A., that all requests for a Permit to Construct 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. The Commission developed an interim policy that requires utilities, inter alia, 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.²⁵

In compliance with GO 131-D, SDG&E has submitted its Detailed Magnetic Field Management Plan²⁶ evaluating magnetic fields and possible magnetic field management measures associated with the Proposed Project. We find that this design complies with the applicant's EMF Guidelines²⁷ prepared in accordance with the Commission's EMF decisions D.93-11-013 and D.06-01-042.

6. Waiver of Comment Period

Although Cal Advocates initially filed a protest, it did not advance that protest following circulation of the draft to IS/MND. Therefore, this is an

²⁴ See D.06-01-042 and D.93-11-013.

²⁵ Measured from the edge of the utility's right-of-way.

²⁶ Application 15-08-006 Appendix F (Attachment 2).

²⁷ SDG&E EMF Design Guidelines for Electrical Facilities.

uncontested matter where the Proposed Decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

7. Category and Need for Hearing

We confirm the Commission's preliminary categorization of this proceeding, but change the preliminary determination regarding a need for hearings.

The Commission in Resolution ALJ 176-3362 preliminarily categorized this proceeding as ratesetting.

The Commission also made the preliminary determination that hearings are required. We change this determination to evidentiary hearings are not required. We conclude hearings are not needed because no material factual issues were presented in the scope of this proceeding.

8. Assignment of Proceeding

Liane Randolph is the assigned commissioner and Eric Wildgrube is the assigned Administrative Law Judge.

Findings of Fact

1. The proposed project will have either no significant impacts or less than significant impacts with respect to agricultural resources, land use and planning, mineral resources, population and housing, public services, recreation, and utilities and service systems.

2. The proposed project has potentially significant impacts with respect to aesthetics, air quality greenhouse gas emissions, biological resources, cultural resources, hazards and hazardous materials, geology and soils, hydrology and

water quality, noise, and transportation and traffic. However, with the implementation of the mitigation measures identified in the TL 649 Wood-to-Steel replacement Project Final IS/MND Mitigation Monitoring and Reporting Program (MMRP) Attachment 1, hereto, the potentially significant impacts are reduced to less than significant levels.

3. The proposed project is designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures.

4. The Final IS/MND was completed in compliance with CEQA and the Commission's Rules of Practice and Procedure.

5. The Commission has reviewed and considered the information contained in the Final IS/MND.

6. The Final IS/MND reflects the Commission's independent judgment and analysis.

Conclusions of Law

1. SDG&E should be granted a Permit to Construct the Tie Line 649 Wood-to-Steel Replacement Project in conformance with the MMRP attached to this order.

2. The proceeding should be categorized as ratesetting.

3. Hearings are not required.

4. This proceeding should be closed.

5. This order should be effective immediately.

ORDER

IT IS ORDERED that:

1. The applicant, San Diego Gas & Electric Company is granted a Permit to Construct the Tie Line 649 Wood-to-Steel Replacement Project in conformance with the Mitigation Monitoring and Reporting Program attached to this order.

2. The mitigation measures set forth in the Tie Line 649 Wood-to-Steel Mitigation Monitoring and Reporting Program are adopted.

3. The Energy Division may approve requests by San Diego Gas & Electric Company (SDG&E) for minor project refinements that may be necessary due to final engineering of the Tie Line 649 Wood-to-Steel Replacement, so long as such minor project refinements are located within the geographic boundary of the study area of the Final Mitigated Negative Declaration and do not, without mitigation, result in a new significant impact or a substantial increase in the severity of a previously identified significant impact based on the criteria used in the environmental document; conflict with any mitigation measure or applicable law or policy; or trigger an additional permit requirement. SDG&E shall seek any other project refinements by a petition to modify this decision.

4. Application 15-08-006 is categorized as ratesetting.

5. Hearings are not required.

6. Application 15-08-006 is closed.

This order is effective immediately.

Dated January 10, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners