

Decision No. 92515

DEC 16 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PACIFIC GAS AND ELECTRIC COMPANY for)
 a certificate of public convenience)
 and necessity under Section 1001 of)
 the California Public Utilities Code)
 and California Public Utilities)
 Commission General Order No. 131-B,)
 authorizing the construction, opera-)
 tion, and maintenance of certain)
 230 kV connections to applicant's)
 Gregg Substation in Madera County,)
 California.)
 (Electric)

Application No. 59362
(Filed January 2, 1980)

Robert Ohlbach and Robert B. McClelland, Attorneys
at Law, for Pacific Gas and Electric Company,
applicant.

James S. Shepard, Attorney at Law, for William
Kromberg and Alford J. Milla; Maurice K. Strantz,
for Powerline Committee; and Robert Durbrow,
Attorney at Law, for Donald L. Milburn;
protestants.

Jan Ruhl, for the City of Fresno; and Sidney B. Cox,
for Producers Cotton Oil Company; interested
parties.

Richard D. Rosenberg, Attorney at Law, and Richard
Tom, P.E., for the Commission staff.

O P I N I O N

Pacific Gas and Electric Company (PG&E) seeks a certificate
of public convenience and necessity under Section 1001 of the Public
Utilities Code (Code) and General Order 131-B authorizing the
construction, operation, and maintenance of 230 kilovolt (kV)
connections between its Herndon Substation and its Gregg Substation.

A duly noticed public hearing was held before Administrative Law Judge Mallory in Fresno on September 23, 1980, and the matter was submitted upon the filing of concurrent opening and closing briefs due October 10, 1980 and October 24, 1980, respectively.

Evidence in support of the authority sought was presented by witnesses appearing for PG&E. Statements in support of the application were made by representatives of Producers Cotton Oil Company of Fresno, Madera Glass Company, Armco Incorporated, Madera County Industrial Development Commission, and Citizens for Adequate Energy.

Petitions requesting dismissal of the application were filed by protestants Donald L. Milburn and the Powerline Committee (PC). Evidence in opposition to the application was presented by protestants Alford J. Milla, a farmer; Maurice K. Strantz, for PC; and Donald L. Milburn, a property owner and farmer.

A staff engineer from the Commission's Utilities Division, Environmental Impact Branch, testified with respect to the Negative Declaration issued for the project.

Briefs were filed by protestants PC, Donald L. Milburn, Alford J. Milla, and Richard Kronberg; and by PG&E.

Project Description

The project involves the reconstruction and rearrangement of existing 230 kV and 115 kV transmission lines between Gregg and Herndon Substations in Madera and Fresno Counties, respectively. The Gregg Substation is not connected to PG&E's transmission system. Gregg Substation was built for the specific purpose of handling the power supplied to and generated by the Helms Pumped Storage Project. Herndon and Gregg are approximately one-half mile apart. The project consists of three short 230 kV double circuit lines supported by lattice steel structures to connect Gregg Substation to the PG&E transmission network through Herndon. Rearrangement and reconstruction of two short sections of existing 115 kV tower lines are also involved. Nine new towers and two guyed lattice steel poles

will be installed for the three 230 kV lines. Three new towers and two guyed lattice steel poles will be added for the rearrangement of the 115 kV tower lines. A total of eight towers and two guyed lattice steel poles will be removed. All but two of these structures are on PG&E property. The existing 500,000 circular mil copper conductor will be replaced with 1,113,000 circular mil aluminum (approximately 1.2 inches in diameter). Tower height ranges from 95 to 153 feet.

The proposed Gregg-Herndon 230 kV line is approximately 3,224 feet long and connects the Gregg 230 kV bus with the Herndon 230 kV bus. About 1,095 feet of new line will be built from Gregg Substation to the intersection with the existing Bellota-Herndon 230 kV line. From that intersection to the Herndon bus structure the new line will replace the existing one.

The estimated cost of all construction and reconstruction is \$837,000.

Need for the Project

The new and relocated transmission lines assertedly are needed to efficiently connect the 1,125 MW output of the Helms Pumped Storage Project (Helms) to the PG&E transmission system. The Helms-Gregg 230 kV line will deliver the output of Helms to the new Gregg Substation. These projects are under construction. Completion of Gregg Substation and the Helms-Gregg 230 kV line was scheduled for October 1980.

PG&E's witness testified (Exhibit 1) that 230 kV power will be required at Helms Power Plant by September 1981 for testing of equipment; since line outages cannot be obtained on the existing lines for reconstruction work between May and October, the proposed reconstruction and line rearrangements should be completed by April 15, 1981.

Helms Pumped Water Project

Helms was authorized by Decision No. 85910 (1976) 80 CPUC 52. That decision granted PG&E a certificate of public convenience and necessity to construct and operate Helms together with transmission lines and related facilities, all as proposed by PG&E in Application No. 54450. PG&E and the staff contend that the Helms-Gregg transmission line was part of the project authorized in Decision No. 85910. PG&E's witness testified that the Gregg-Herndon transmission line was intended to be included in the Helms project, but was excluded through oversight. The witness further testified that the Gregg-Herndon transmission lines were described on page 2-9, paragraph 33 of the final Environmental Impact Report (EIR) for the Helms project.

The Helms project requires energy during off-peak periods from other sources in order to pump water to the storage facility. The return of that water through Helms will generate electricity during peak periods. 230 kV lines are adequate only during the testing and start-up period of the Helms project. When in full operation 500 kV lines will be required.

Negative Declaration

The application contains a Proponent's Environmental Assessment (PEA) prepared in accordance with the California Environmental Quality Act of 1970 (CEQA), Rule 17.1 of the Commission's Rules of Practice and Procedure, and General Order 131-B. Rule 17.1 requires that the proponent of a project in which this Commission is the lead agency shall file with the Commission sufficient information to enable the Commission to evaluate the project and to prepare an EIR, or initial study and Negative Declaration as more specifically provided therein.

Staff witness Moir (Exhibit 6) testified as follows: The witness inspected the site of the proposed project and reviewed the PEA for adequacy, accuracy, and compliance with applicable regulations. An initial study was prepared by him and circulated to twenty responsible county, state, and federal agencies. Based on the initial study a Negative Declaration was prepared. Owners of the property affected by the project were notified by mail of the preparation of a Negative Declaration, and a public notice was published in the Fresno Bee.^{1/}

No adverse comments on the potential environmental impact of the project were directly received from the property owners or any public agency. The State Clearinghouse (office of Planning and Research) advised the Commission by letter dated June 24, 1980 that it had reviewed the Negative Declaration for the Gregg-Herndon 230 kV line project, and that its letter verified the Commission's compliance with environmental review requirements of CEQA.

Location of Gregg Substation

Protestants contend that the Gregg Substation is unnecessary for the purpose of connecting the Helms project to PG&E's transmission system, and that such connection more properly should be made through Herndon. In response to this contention, a supervising electrical engineer employed by PG&E testified as follows concerning the location of the Gregg Substation and its relationship to the Helms project. ✓

In reliance upon the Helms decision, which sited the Helms Creek line termination and Gregg Substation, PG&E has obtained the land for Gregg Substation, and has completed about 85 percent of the first phase construction, which consists of the 230 kV switchyard. All of the structures are up and major equipment is in place.

^{1/} The property owners notified were David Milburn, Atlantic Western Financial Corporation, and Doctor Sidney S. Ames.

Studies during the planning stages for Helms in the early 1970s indicated a need for 500 kV transmission to best serve the expected loads in the Fresno area, as well as provide capacity for full pumping loads at Helms. Several sites were studied. One site studied was the existing Herndon Substation. Herndon Substation was considered inadequate because:

1. It is considerably restricted by the San Joaquin River, which severs about one-quarter of the acreage.
2. A county road also runs through the property to the Fresno Sheriff's facility.
3. The existing Herndon Substation site is not large enough to contain a new facility of the size and configuration contemplated.
4. Homes in the town of Herndon are immediately adjacent to the substation property, which could lead to noise and aesthetic problems.

If it should become necessary to connect Helms through Herndon, the most reasonable place for a new station in the Herndon site would be along the westerly side. That choice was deemed inappropriate by PG&E because:

1. It would require considerable grading as there is as much as a 40-foot difference in land elevation in this area.
2. It would be difficult to bring 500 kV lines in and out of that location because of the proximity of the town of Herndon and the Sheriff's facility.
3. A 500 kV line from Herndon to Gates would have to come out of the southerly end of the Herndon Substation, then turn and cross the highway.
4. The location of the 230 kV bus would have to be very close to the residences in Herndon.
5. The highway crossing would be less desirable than the present crossing as it would have to go through a commercial area on Old Highway 99 in Herndon and over an overpass, requiring quite high towers.

6. The whole station would be highly visible from Highway 99.
7. Development of the site at Herndon and construction would also be considerably more expensive than at Gregg Substation.

The site at Gregg Substation was selected because it did not have the constraints described above and has adequate space for any future expansion.

Protestants' Evidence

Alford J. Milla, a farmer whose acreage is located on the Gates-Gregg transmission line proposed in Application No. 56532 (route denied by Decision No. 89851), testified that he opposed construction of the 500 kV line through his property to Gregg Substation. The Herndon-Gregg 230 kV line proposed in this application would not cross Milla's property and he would not be directly affected by its construction. (Tr. 42.)

Donald L. Milburn is a property owner directly affected by the proposed Herndon-Gregg transmission line which would cross a portion of his orchard. Milburn testified that he opposed the new and reconstructed lines as it would make crop dusting a problem, and because he did not want PG&E maintenance employees on his property. An existing 115 kV line from Herndon Substation now crosses Milburn's orchard. The record shows that the proposed location of the transmission towers were changed at Milburn's request to be closer to property lines. The record also shows that Milburn acquired his present orchard property in exchange for property which became a part of the Gregg Substation. PG&E contends that Milburn was aware of the existing 115 kV lines crossing the orchard property when he acquired it and, being aware of the construction of the Gregg Substation, should have assumed that a new transmission line between Herndon and Gregg would be built.

Maurice Strantz testified for protestant. According to Strantz, PC consists of persons whose property lies along the route of the Gates-Gregg 500 kV line turned down in Decision No. 89851. Those persons still oppose the construction of a transmission line along that route. PC appeared in opposition to the instant application because its members believe that connecting Helms to the PG&E transmission system through the Gregg Substation ensures the construction of a 500 kV line from Gregg to Gates sometime in the future. It is PC's view that PG&E did not give adequate consideration to connecting Helms to the transmission system by constructing 230 kV lines directly from Helms to Herndon. PC recognizes that a direct 500 kV connection through Herndon is unfeasible. The record shows that none of the members of PC owns property along the proposed route of the Herndon-Gregg 230 kV transmission line, and thus none of the property owners are directly affected by this application.

Motions to Dismiss

Petitions to dismiss the application and Negative Declaration were filed on behalf of PC and Milburn. PC argues that the application is unnecessary because PG&E can interconnect Helms to its system under the authority of USC Title 16, Section 796(11). PC argues that such connection must be made to the existing system and should not run through another unnecessary switching system. It concludes that the application should have been rejected by the Commission staff since it is unneeded.

PC further argues that the staff incorrectly processed a Negative Declaration covering a major project. While the staff contends that Madera County is the lead agency for approval of Gregg Substation, PC contends that it is part of the Gates to Gregg 500 kV transmission line project for which the Commission is the lead agency, and which was turned down in Decision No. 89851. ✓

PC further argued that although PG&E's witness testified that the Herndon-Sanger line was authorized as a 230 kV line, it has always operated as a 115 kV line, and the PG&E witness could not cite the Commission authority to operate it as a 230 kV line.

Based on the foregoing, PC requests that the Commission reject the application because the terminal to Helms has been established at Herndon. It further requests that the construction costs of Gregg Substation should not be included in rate base until a major line is authorized to terminate at that point.

Milburn argues that the application should be dismissed as it is unnecessary, since a 230 kV line connecting Helms and Herndon was authorized by Decision No. 89510, supra. Milburn states that Herndon is the only connection discussed in Application No. 54450 or in Decision No. 89510 which would interconnect the Helms project into the PG&E system.

Milburn argues that this application seeks to bootstrap the existence of Gregg Substation. He argues that need for Gregg was resolved in Decision No. 89851 which turned down the 500 kV line between Gates and Gregg. He states that the interconnection of Helms to the system through Gregg is in order to recover the construction costs of Gregg, which substation would be unnecessary if the Gates to Gregg 500 kV line is not built.

Milburn requests that the application be dismissed and that PG&E be directed to connect the Helms 230 kV line to PG&E's system on a route that bypasses the Gregg Substation.

The Helms Project Approved In Decision No. 89510

Decision No. 89510 (80 CPUC 52) under the heading "Project Description (PG&E's Proposal)" states in part as follows: ✓

"The proposed route for the transmission lines is shown in the Commission's Environmental Impact Report. This choice resulted from an evaluation process in which the environmental and other benefits of this route were compared to those of the alternative routes. Details of two of the several possible alternate routes for the transmission lines have been shown in the EIR.

"To provide power for testing it is planned to complete the transmission lines one year ahead of the date of the power plant's commercial operation.

"The power plant and related facilities of the Helms Pumped Storage Project will be located in the Sierra National Forest. In addition, the transmission lines will traverse Federal, State and private lands.

"The cost of the Helms project is estimated by PG&E to be \$234,000,000 (in 1980 dollars). This includes transmission and stepup and terminal substation facilities." (Pages 53 and 54.)

Finding 53 (at page 66) reads as follows:

"53. Present and future public safety, health, comfort, convenience and necessity require the construction, maintenance, operation, and use of the Helms Pumped Storage Power Plant together with transmission lines and related facilities."

Exhibit 1 in Application No. 55450 is the Final EIR for Helms. Page 2-9 of Exhibit 1 reads, in part, as follows:

"2 - PROJECT DESCRIPTION

"C - TRANSMISSION LINE

"30. Transmission for the Helms project would be for the purpose of carrying power from the plant when generating as well as power to the plant when pumping. Power generated or used in the Helms plant will be transmitted by two-2 conductor bundle 230,000 volt circuits to the future Gregg Substation in Madera County, approximately 12 miles

northwest of Fresno and one mile north of the existing Herndon Substation. The distance between the Helms plant and Gregg Substation is approximately 60 miles. For the initial 15.6 miles, transmission lines would be carried on a double line of lattice steel towers due to heavy snow loading in winter at high elevations. The final 44.4 miles, of the two circuit transmission lines, would be carried on a single line of towers. Single towers will be on a 120 foot wide right-of-way and double towers will have a 200 foot wide right-of-way."

* * *

"32. The future Gregg Substation is the nearest feasible terminal of PG&E's integrated electric system in the Fresno metropolitan area.

"33. The proposed Gregg Substation is not included as part of the action under application but is a necessary adjunct to the project. During the first few years of project operation, starting in 1980, this substation would be linked, by a one-mile long transmission line, to the applicant's existing Herndon Substation, a part of applicant's interconnected system. Applicant's existing 230-kv system would be able to supply sufficient pumping energy for the project during its early years of operation, and would also be able to accommodate its output."

Reading the description of the Helms project in Decision No. 85910 together with the Final EIR (Exhibit 1 in that proceeding) it is clear that the Gregg Substation and the 230 kV transmission lines between Helms and Gregg were part of the project approved in Decision No. 85910. The transmission line link between Gregg and Herndon is not a part of the Helms project approved in the decision, but PG&E's plan to connect Gregg and Herndon is described in the Final EIR, and paragraph 33 on page 2-9 indicates the intention to construct the one-mile line between Gregg and Herndon to link Gregg into PG&E's transmission system.

Discussion

PC and Milburn are looking beyond this application in their opposition to the Gregg-Herndon transmission link. Their opposition to connecting Helms to PG&E's transmission line system through Gregg Substation is based on their belief that making Gregg part of that link ensures the ultimate approval of the Gates-Gregg 500 kV transmission line.

PG&E apparently intends to renew its request to construct Gates-Gregg, as it sought and received approval for a tower climbing space deviation applicable specifically to the Gates-Gregg 500 kV line by Decision No. 92357 dated October 22, 1980 in Application No. 59747.^{2/}

We must point out as clearly as possible that approval of the project involved in this application does not imply ultimate approval of the Gates-Gregg 500 kV transmission line. The project we have before us is:

1. A 230 kV line, not a 500 kV line.
2. The 230 kV link initially is needed to bring test voltages to Helms.
3. The 230 kV lines are sufficient to carry the output of Helms for an indefinite period until it gets into full operation.
4. Full operation of Helms may be delayed for some time, depending upon the availability of off-peak power from other PG&E generating units to pump water to Helms.

2/ Ordering paragraph 2 of Decision No. 92357 reads as follows:

"2. This approval is restricted to Y-shaped towers that will be used for a portion of the Gates-Gregg 500 kV transmission line, if and when such line might be authorized."

We have carefully considered all of the evidence adduced and the points raised in the briefs of the parties.

The evidence shows that, while it is possible to link PG&E's transmission system to Helms through an enlargement of Herndon, a more practical, efficient, and safe operation would result by making that link through Gregg. Substantial construction has been completed at Gregg. The record shows that several factors militate against enlargement of Herndon to accommodate additional 230 kV lines and switching equipment. Herndon is split by the San Joaquin River which separates the two halves of the facility; it is not convenient to build on the portion of land available within Herndon; and the Helms-Herndon transmission line route would need to be circuitous to avoid encroachment on existing nearby facilities.

There is an existing transmission line across Milburn's property. The existing, as well as the additional lines, would be relocated to cause as little interference with the use of the orchard property as possible. Moreover, Milburn was aware of the proposed Gregg-Herndon lines, as he acquired his present orchard property after PG&E took over his land for Gregg Substation.

Milburn and PC argue in their briefs that the termination point of the Helms interconnection to the system must be at a point existing when the project was approved. PG&E argues that nothing in Code Section 1001, General Order 131-B of the Commission, or the federal statute (16 USC § 796(11)) or the requirements of the California Energy Commission (see Attorney General's Opinion No. SO 76-58 - July 14, 1977; 60 Attorney General's opinions 239), relied upon by Milburn and PC, require that the termination point must be to an existing interconnected point on the utility system.

PG&E states that in light of the long lead time required to construct major electric generation projects such as Helms, it would be senseless to require that every single substation and connecting line be in place at the time of approval of the main project, to sit idly for years while the main project is being built. Rather, it is reasonable to hold off construction of the minor projects until they are needed to bring the whole project on line several years in the future. PG&E states that the Helms decision did that when it authorized the Helms Creek 230 kV line to terminate at the future Gregg Substation. PG&E believes its action in acquiring the land, the necessary permits, and commencing construction of Gregg Substation was reasonable in light of the explicit requirement for Gregg noted in the Helms decision and Final EIR.

We concur that no existing statute or rule requires that Helms' interconnection with PG&E's transmission line system must be made at a substation existing at the time of the Helms project approval. The contrary intention of this Commission is clearly expressed in Decision No. 89510 and in the Final EIR in that proceeding. That decision shows such interconnection would be through Gregg. None of the positions advanced by PC and Milburn for not approving the project described in this application have merit. The project should be approved with the caveat that by approving 230 kV connections between Herndon and Gregg we are not prejudging any new request to construct a 500 kV transmission line between Gates and Gregg.

Findings of Fact

1. In Decision No. 89510 (80 CPUC 52) the Commission granted a certificate of public convenience and necessity to construct Helms which included necessary 230 kV transmission lines over the route shown in the Final EIR (Exhibit 1 in that proceeding), which transmission lines were to terminate at a proposed Gregg Substation.

2. The Final EIR shows that a 230 kV transmission line would be constructed between the proposed Gregg Substation and the existing Herndon Substation to connect Helms to PG&E's electric transmission system.

3. No specific authority was required of this Commission to construct Gregg Substation. Construction was begun after filing a Final EIR and issuance of necessary permits by Madera County.

4. A 230 kV transmission line is required between Gregg and Herndon as requested in this application to connect Helms to PG&E's transmission system. Helms is scheduled for completion in late 1981. Prior to that time the plant's equipment must be tested electrically.

5. The project proposed herein will provide the required tie-in of Helms to PG&E's system, so that testing and operation of Helms may commence.

6. The environmental review of this project resulted in the issuance of a Negative Declaration.

7. The project is essential to serve public convenience and necessity.

8. Early construction of this project is needed to permit Helms to commence testing and operation.

Conclusions of Law

1. Present and future public convenience and necessity require the construction and operation of the 230 kV transmission lines between Gregg and Herndon proposed in this application.

2. There is no existing statute or rule that requires Helms to be connected to PG&E's transmission line system through a substation existing at the time the Helms project was approved.

3. Approval of the project involved in this application is not dispositive of any future request of PG&E for a Gates-Gregg 500 kV transmission line. Any future request to construct a Gates-Gregg 500 kV project must stand on its own merits.

4. The action taken herein is not to be considered as indicative of the amounts to be included in future proceedings for the purpose of determining just and reasonable rates.

5. The motions to dismiss the application should be denied.

6. The effective date of this order should be the date hereof in order that PG&E can commence construction of this transmission line project which, upon completion, will permit testing to commence at Helms.

Pacific Gas and Electric Company is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Pacific Gas and Electric Company for the construction and operation of a 230 kV transmission line and ancillary structures between its Herndon and Gregg Substations as more specifically described in the application and Proponent's Environmental Assessment made a part thereof.

2. The Executive Director of the Commission is directed to file a Notice of Determination of the project, with contents as set forth in Appendix A, with the Secretary of Resources.

3. The motions to dismiss this application filed by Powerline Committee and Donald L. Milburn are denied.

The effective date of this order is the date hereof.

Dated DEC 16, 1980, at San Francisco, California.

John E. Byrne
President

Richard B. Howell
Clair T. DeLoach

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

APPENDIX A

NOTICE OF DETERMINATION

TO: Secretary for Resources
 1416 Ninth Street, Room 1312
 Sacramento, California 95814

FROM: California Public
 Utilities Commission
 350 McAllister Street
 San Francisco, Calif. 94102

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title Gregg Substation 230 kV Connections

State Clearinghouse Number (If submitted to State Clearinghouse)
80032413

Contact Person Telephone Number
 Richard Tom (415) 557-3241

Project Location
Fresno and Madera Counties, California

Project Description
The project consists of three short 230 kV double circuit lines to connect the Gregg Substation to the PG&E transmission network.

This is to advise that the California Public Utilities Commission as lead agency has made the following determination regarding the above described project:

1. The project has been approved by the Lead Agency.
 disapproved
2. The project will have a significant effect on the environment.
 will not
3. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. A copy of the Negative Declaration is attached.

Date Received for Filing

Executive Director

Date