

Decision 99-05-020 May 13, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company to Construct the Northeast San Jose Transmission Reinforcement Project.

Application 98-07-007
(Filed July 19, 1998)

FINAL OPINION TO DISMISS WITHOUT PREJUDICE

On February 28, 1999, Pacific Gas and Electric Company (PG&E) reported the results of its re-analysis of proposed routing alternatives in this proceeding, as well as its re-evaluation of the project schedule requirements. This report was submitted after PG&E requested a delay in the prehearing conference scheduled by the assigned Administrative Law Judge.

In its report, PG&E requested that the Commission review and issue a Certificate of Public Convenience and Necessity (CPCN) for both the preferred route identified in its application, and one of the alternatives, referred to as the easterly 230 kV route alternative. PG&E made this request because of uncertainty over the viability of its preferred route in light of concerns raised by representatives of the Don Edwards National Wildlife Refuge and the U.S. Department of the Interior.

These developments create a severe problem in meshing the requirements of the California Environmental Quality Act, which requires Commission action within 12 months from when the application is deemed complete, and the case processing requirements of Senate Bill (SB) 960. We note that this application has not yet been deemed complete by the Energy Division, because of deficiencies still outstanding. Moreover, we note that PG&E does not dispute that an Environmental Impact Report is appropriate for the project. (See PG&E's

February 28, 1999 report, p. 4, footnote 3.) PG&E's report adds additional uncertainty as to what "project" is being applied for and, with it, associated notice and environmental review complexities that will add to the Commission's processing period. In sum, the specific uncertainty surrounding PG&E's evaluation of routing alternatives, coupled with the need for an EIR, will put us beyond the 18-month SB 960 deadline for this application.

Recognizing these concerns, and the current uncertainty of the route, PG&E filed a motion to dismiss the application on April 12, 1999. For administrative purposes, we believe that this application should be dismissed without prejudice, and do not address any of the merits of the case in today's order. PG&E's motion to dismiss is granted. We deny PG&E's February 28 request to seek a multiple project CPCN. We believe that the public, as well as the Commission, is entitled to some amount of certainty as to what project is being proposed and considered under the California Environmental Quality Act.

Nothing in today's order precludes PG&E from filing a new application for a CPCN to construct a Northwest San Jose Transmission Reinforcement Project. PG&E's new application should identify the specific project for which it seeks approval, including its precise location and route. PG&E's new application should include any information requested to date from our Energy Division related to the preferred project and alternatives that PG&E does identify in its application. Upon PG&E's submission of a new application for a CPCN, the Energy Division and its consultants under Contract PS 5004 shall resume their environmental review process.

In Resolution ALJ 176-2997 dated July 23, 1998, the Commission preliminary categorized this application as ratesetting, and preliminarily determined that hearings were necessary. Because of our decision to dismiss this

application without prejudice, as requested by PG&E, a public hearing is not necessary.

Comments on Draft Decision

The draft decision of ALJ Gottstein in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. No comments were filed.

Findings of Fact

1. Processing of this application will take more than the 18-month limit of SB 960 due to uncertainties recently raised by other agencies over the viability of PG&E's preferred project, coupled with the fact that the application has not yet been deemed complete by the Energy Division and will require an Environmental Impact Report.

2. A multiple project CPCN is not in the public interest because it does not provide the public or this Commission adequate certainty as to which project is being proposed and considered pursuant to the California Environmental Quality Act and Pub. Util. Code § 1002.

3. On April 12, 1999, PG&E filed a motion to dismiss A.98-07-007.

Conclusions of Law

1. This application should be dismissed without prejudice.

2. PG&E's request for Commission approval of a multiple project CPCN should be denied. Should PG&E elect to file a new application for the Northwest San Jose Transmission Reinforcement Project, that new application should identify the specific project for which approval is sought, including its precise location.

3. PG&E's new application should also include any information requested to date from our Energy Division related to the preferred project and alternatives identified in that application.

4. No public hearings are needed in this application.

5. In order to facilitate the closing of this docket, this order should be effective today.

O R D E R

IT IS ORDERED that:

1. This application is dismissed without prejudice.

2. If Pacific Gas and Electric (PG&E) submits a new application requesting a Certificate of Public Convenience and Necessity for the Northwest San Jose Transmission Reinforcement Project at a later date, it shall identify the specific project for which approval is sought, including the precise location and route. In addition, PG&E's new application shall include any information requested to date from our Energy Division related to the preferred project and alternatives identified in the new application.

3. Application 98-07-007 is closed.

This order is effective today.

Dated May 13, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners