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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

Application 07-06-031
(Filed June 29, 2007)

**AMENDED SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER**

1. Summary

This ruling grants in substantial part the November 2, 2012, motion by the City of Chino Hills and accordingly, revises the schedule for this proceeding and adjusts the scope.¹ More particularly, this ruling:

- 1) Provides for record development and an interim decision as early as February 28, 2013, on rate recovery associated with specified preliminary contracting by Southern California Edison Company; and
- 2) Modifies the prior schedule for record development needed to support a final decision as early as July 11, 2013, on whether to modify Decision 09-12-044 to require

¹ *Motion of the City of Chino Hills for an Order Directing Southern California Edison Company to submit Rate Recovery and Contracting Information to Facilitate Timely Construction of an Underground Transmission Option and for Modification of the Procedural Schedule*, filed November 2, 2012.

undergrounding of Segment 8A of the Tehachapi Renewable Transmission Project.

2. Background and Related Procedural History

By Decision (D.) 09-12-044, issued on December 24, 2009, the Commission granted Southern California Edison Company (SCE) a Certificate of Public Convenience and Necessity to construct Segments 4 through 11 of the Tehachapi Renewable Transmission Project (TRTP), using the Environmentally Superior Alternative, and subject to the mitigation measures and other conditions described in that decision. My July 2, 2012, scoping memo issued in response to the petition for modification of D.09-12-044 filed by the City of Chino Hills (Chino Hills).² The scoping memo followed three prehearing conferences and the Commission's issuance of D.11-11-020, which stayed construction of much of Segment 8A, the portion of Segment 8 that passes through Chino Hills. The Commission subsequently modified D.11-11-020 in two other decisions, D.11-11-026 and D.12-03-050, to correct and clarify the stay.

The July 2, 2012 scoping memo directs SCE to serve revised, supplemental prepared testimony for Segment 8A of the TRTP by February 28, 2013. The scoping memo provides that the prepared testimony shall be based on preliminary engineering and shall:

[M]ore fully describe and estimate the costs and construction timeline for the following single-circuit underground options ...

- Underground single-circuit XLPE with three cables per phase in conduit in existing Chino Hills ROW (Option 10).

² *Scoping Memo and Ruling of Assigned Commissioner, July 2, 2012.*

- Underground single-circuit XLPE with two cables per phase in conduit in existing Chino Hills ROW (Option 11). (Scoping memo at 4.)

The scoping memo also provides for prepared testimony from Chino Hills and other interested parties, a rebuttal opportunity for SCE, evidentiary hearings (EHs) from May 20-23, 2013, and briefs in June 2013. On November 2, 2012, Chino Hills filed the instant motion, concurrently with a motion to shorten time for responses in which Chino Hills waived its own opportunity to reply. After consultation with my office, the assigned administrative law judge (ALJ) ruled that responses be filed by November 9, 2012.³ The following parties timely filed responses: the Commission's Division of Ratepayer Advocates (DRA), Independent Energy Producers Association (IEP), Large Scale Solar Association (LSA), and SCE.

3. Discussion

3.1. Summary of Motion, Responses, and Opposition

Chino Hills motion states that concerns expressed in the last several months by several entities representing renewable power developers, as well as a recent letter from SCE, underscore fears about the feasibility of achieving the expected commercial operation date for TRTP in late 2015 unless the schedule for this proceeding is revised.⁴ Chino Hills urges the Commission to modify the schedule to ensure full record development and permit a Commission decision

³ The ALJ ruled by e-mail sent to the service list on November 5, 2012, and confirmed formally by ruling filed November 13, 2012.

⁴ Chino Hills points to notices of *ex parte* contact filed by IEP on August 10, 2012, and by LSA on August 31, 2012, and to SCE's October 29, 2012, letter served on all Commissioners, the parties to this proceeding, and others.

on whether to underground Segment 8A by July 11, 2013. Chino Hills includes a proposed, revised schedule. Based on SCE's recent letter, Chino Hills' proposed schedule incorporates two, new reports from SCE, comment on the reports from other parties, and an interim Commission decision thereafter limited to recovery of preliminary contracting costs. Chino Hills states:

- (a) SCE should be directed to submit a proposal that clearly defines the "reasonable assurance" it requires "that the Commission will support rate recovery of the costs incurred [for undergrounding the TRTP through Chino Hills] should the Commission later decide to reject the CPCN modification," (rate recovery proposal), and
- (b) SCE should be directed to prepare and file a detailed report (contracting report) specifying the contracts for services and materials that it must enter into, the transmission cable and/or other materials it must order (including any necessary deposits), the deadlines for executing such contracts so that a December 31, 2015 commercial operation date for the TRTP can be met, and the current status of its negotiations to enter into such contracts. (Chino Hills motion at 6.)

Both IEP and LSA support Chino Hills' motion as a positive step toward ensuring timely completion of the TRTP. SCE does not oppose modifying the schedule, but recommends several changes to Chino Hills' proposal. SCE proposes that: (1) Chino Hills and other interested parties submit two rounds of prepared rebuttal testimony that would follow SCE's December 3, 2012, supplemental prepared testimony and its subsequent update on February 28, 2013; (2) the hearing allocation be increased to five days (up from four); and (3) the briefing schedule be amended "to allow sufficient time to respond to any issues raised in the process." (SCE response at 8.)

DRA opposes Chino Hills' motion for a number of reasons: that Chino Hills lacks standing to file the motion (and that Chino Hills' concerns could be addressed by data request and thereafter, as necessary, by a motion to compel); that any rate recovery proposal is premature until the Commission has determined whether to underground Segment 8A; that the motion seeks an order that effectively grants Chino Hills' petition for modification of D.09-12-044; and that the proposed schedule is "untenable, unreasonable and contravenes the law." (DRA Opposition at 7.)

3.2. Revised Scope

I am persuaded by the motion and responses that the scope should be further revised from that set out in the July 2, 2012, scoping memo to create a two-track path to a final decision on whether to underground Segment 8A. The revised schedule is set out in subsection 3.3., and I address SCE's procedural concerns there. While I have read DRA's substantive opposition closely, it appears that DRA has misunderstood the process by which a proposed interim decision on cost recovery would be reached, the substantive record on which it would rely, and if adopted as a decision of the Commission, its limited application.

More specifically, DRA is wrong that Chino Hills' motion should be denied for lack of standing. Rule 11.1(b) of the Commission's Rules of Practice and Procedure expressly provides that "[a] motion may be made at any time during the pendency of a proceeding by any party to the proceeding."⁵

⁵ All subsequent references to Rule or Rules mean the Commission's Rules of Practice and Procedure.

Chino Hills is a party to this proceeding. Moreover, as to subject, Rule 11.1(a) is very broad: “A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission.” To be sure, the fact that a motion is filed does not oblige the Commission or an ALJ to rule upon it, but that that is a different issue altogether. DRA has not shown that Chino Hills’ motion should be denied for lack of standing or any other procedural reason.

Though separately articulated, DRA’s three other objections essentially fall out into a substantive and a procedure concern. Substantively, DRA appears to argue that on the merits (though at this time the merits are highly conceptual and require further elaboration in SCE’s proposal and report), the Commission should not approve an interim decision limited to recovery of preliminary contracting costs. But Chino Hills’ motion does not ask the Commission to make such a decision; rather, Chino Hills seeks to establish a process that would permit a future decision on the merits, after notice – including a more thorough description of the proposal – and opportunity to be heard. DRA appears to misunderstand the purpose of the two SCE filings proposed (the rate recovery proposal and the contracting report) and the opportunity for other parties to comment on them. With respect to the filing of an interim proposed decision and the opportunity for all parties to file opening and reply comments afterward, DRA has not shown how these provisions fail to comport with statute or the Commission’s Rules.

3.3. Revised Schedule

The schedule, as revised below, will govern this proceeding unless further revised by a subsequent assigned Commissioner’s ruling or ruling of the assigned ALJ. The schedule shows the procedural and substantive development

leading to an interim and a final decision on Chino Hills’ petition for modification of D.09-12-044.

The schedule leading to an interim decision adopts the proposed schedule included with Chino Hills’ motion.

Schedule Leading to Interim Decision on Rate Recovery Issues	
Date	Event
November 30, 2012	SCE rate recovery proposal filed and served.
December 14, 2012	Parties’ responses to rate recovery proposal filed and served.
December 21, 2012	SCE’s reply to parties’ responses on rate recovery proposal filed and served.
January 17, 2013	SCE contracting report on service and materials contracts and the status of negotiations filed and served.
January 22, 2013	Parties’ responses to contracting report filed and served.
January 24, 2013	SCE’s reply to parties’ responses on contracting report filed and served.
January 29, 2013	Proposed interim decision filed and served.
February 19, 2013	Comments on proposed interim decision filed and served.
February 25, 2013	Reply comments on proposed interim decision filed and served.
February 28, 2013	First public meeting at which the Commission may consider the proposed interim decision.

The schedule leading to a final decision makes one adjustment to the proposed schedule included with Chino Hills’ motion: it allocates four days for EHs (not three) and thus retains parity with the allocation in the July 2, 2012, scoping memo but rejects SCE’s suggestion that five days be set aside. The

schedule does not provide for multiple rounds of prepared testimony (which SCE also suggested), since that likely would complicate the record rather than add clarity. The Commission needs to know what other parties think about SCE’s final assessment (as developed per the July 2, 2012, scoping memo and updated in accordance with today’s amended scoping memo), as well as the final assessment of any other nonaligned party. The support or opposition for any not-yet-final assessment will not be particularly helpful to the Commission’s final decision on the merits and could well be burdensome.

The schedule below also adds the provision that any party that desires final oral argument before the Commission under Public Utilities Code § 1701.3(d) should make that known in the first paragraph of its opening brief.

Schedule Leading to Final Decision on Chino Hills’ Petition for Modification of D.09-12-044	
Date	Event
December 3, 2012	SCE serves revised, supplemental prepared testimony (per July 2, 2012 scoping memo).
February 28, 2013	SCE serves amendment to revised, supplemental testimony as necessary to include information from January 17, 2013, contracting report.
March 20, 2013	Chino Hills serves prepared testimony on undergrounding (per July 2, 2012 scoping memo).
April 5, 2013	Other parties serve prepared testimony on undergrounding.

April 12, 2013	SCE serves rebuttal prepared testimony; Chino Hills and other parties serve cross-rebuttal prepared testimony (if any).
April 22, 2013, 9:00 a.m. – 3:30 p.m., continuing day to day as necessary through April 25, 2013	Evidentiary Hearing Commission Court Room State Office Building 505 Van Ness Avenue San Francisco, CA 94102
May 6, 2013	Concurrent opening briefs filed (must include request for final oral argument, if desired).
May 13, 2013	Concurrent reply briefs filed; submission.
June 11, 2013	Proposed decision filed.
July 1, 2013	Comments on proposed decision.
July 8, 2013	Reply comments on proposed decision.
July 11, 2013	First public meeting at which the Commission may consider the proposed decision.

4. Discovery; Nondisclosure Agreements

The parties are reminded that Rule 11.3., which governs the filing of a motion to compel, requires that disputing parties may not file such a motion without first meeting in good faith in an effort to informally resolve their differences. Parties should negotiate among themselves any necessary nondisclosure agreement or agreements, whether related to discovery or other procedures.

IT IS RULED that:

1. The November 2, 2012 motion by the City of Chino Hills is granted in substantial part as set forth herein and is otherwise denied.
2. The revised scope of the proceeding is as set forth herein.
3. The revised schedule for this proceeding is set forth herein.

4. Parties must negotiate among themselves any necessary nondisclosure agreement or agreements, whether related to discovery or other procedures.

5. Any request for final oral argument under Public Utilities Code § 1701.3(d) shall be made in the first paragraph of a party's opening brief.

Dated November 15, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner