

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Substation Facilities with Voltage over 50 kV: Mesa 500 kV Substation Project

Application 15-03-003
(Filed March 13, 2015)

RESPONSE OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO THE CITY OF MONTEBELLO’S APPLICATION FOR REHEARING

I. Introduction

Pursuant to Rule 16.1(d) of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, the California Independent System Operator Corporation (CAISO) files this response to the City of Montebello’s (Montebello) Application for Rehearing (Application). Montebello requests rehearing of Decision (D.) 17-02-015, which granted Southern California Edison Company’s (SCE) application for a certificate of public convenience and necessity (CPCN) to build the Mesa 500 kV Substation Project (Project). Montebello asserts that D.17-02-015 incorrectly certified the Final Environmental Impact Report (FEIR) for the Project. The Commission should reject Montebello’s Application because the FEIR is consistent with the California Environmental Quality Act (CEQA), and Montebello has not identified “unlawful or erroneous” assertions in D.17-02-015.

II. Discussion

This response addresses specific claims by Montebello regarding (1) the validity of the FEIR’s Statement of Project Objectives, (2) the FEIR’s evaluation of the “No Project” alternative and (3) D.17-02-015’s rejection of Project Alternative 3 based on cost considerations. In each case, D.17-02-015 made determinations that are consistent with CEQA and based on substantial evidence in the record. The CAISO discusses these issues in detail below.¹

A. The FEIR’s Statement of Project Objectives Is Clear and Understandable.

Montebello asserts that the FEIR violates CEQA because the Statement of Objectives is “overly technical and complex” in violation of CEQA Guidelines. Montebello points to Section

¹ The CAISO also opposes Montebello’s request for party status in this proceeding as out of time and prejudicial.

15124 of the CEQA Guidelines, which provides that “a clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary.” Montebello asserts that the FEIR Statement of Objectives falls short of this standard because it contains acronyms and references to electric reliability standards that are not written in “plain language.”²

Montebello’s claims fail to address the detailed description of project objectives contained in Section 1.2.4 of the FEIR. For example, Montebello claims that “the acronym ‘OTC’ is defined as ‘Once-Through Cooling,’ but this definition itself lacks meaning to the public.”³ However, Section 1.2.4.1 of the FEIR goes into significant detail to explain, in plain language, the OTC policy, the impending retirement of OTC units and the resulting consequences on electric reliability in the Los Angeles Basin. The following excerpt is illustrative:

By December 31, 2020, it is expected that approximately 4,250 megawatts of electric generation in the Western Los Angeles Basin will be retired to comply with the State Water Resources Control Board OTC policy, which aims to eliminate as much as possible coastal or estuarine water usage for cooling. Some units will be retrofitted to use air cooling or otherwise modified to comply with the order. However, a substantial number of OTC units are slated to be retired. OTC generation shutdown would stress the existing transmission system and impact its ability to provide reliable electric service beginning January 1, 2021 (CAISO 2014) under peak load conditions.⁴

The Statement of Project Objectives also provides a plain language description of the reliability consequences associated with the retirement of the OTC units, the applicable reliability standards, and the need to maintain uninterrupted electrical service.⁵ Transmission planning and maintaining electric reliability can be a complicated endeavor, but the FEIR effectively distills these complex issues into a plain language description of project objectives.

B. The FEIR Evaluation of the No Project Alternative Is Consistent with CEQA.

The FEIR properly determined that the No Project Alternative would result in certain “reasonably foreseeable events or actions.” The FEIR detailed those reasonably foreseeable

² Application, p. 4-5.

³ Application p. 4.

⁴ FEIR, Section. 1.2.4.1.

⁵ See FEIR, Sections 1.2.4.1, 1.2.4.2, and 1.2.4.3.

events as (1) a load-shed scheme, (2) additional generation procurement in the Western Los Angeles Basin, and (3) alternative transmission projects. Montebello suggests that the FEIR's analysis of the No Project alternative is inadequate because these events are not reasonably foreseeable. However, these alternatives clearly are reasonably foreseeable events or actions because under the No Project Alternative, SCE would be out of compliance with **mandatory** reliability standards, and it would still be obligated to meet those reliability standards.

Montebello also argues that FEIR incorrectly analyzes the No Project Alternative because it is not "limited to the project's exact environmental setting."⁶ Montebello suggests that this requires the FEIR to consider only those potential environmental impacts caused by the No Project Alternative that are in the "vicinity of the Project."⁷ Montebello provides no support for this claim. In fact, Montebello cites to CEQA guidelines that directly contradict this assertion:

If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" wherein the existing environmental setting is maintained. *However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.*⁸ (emphasis added).

CEQA specifically provides that the No Project Alternative analysis must consider the environmental impact of all "predictable actions," including the proposal of "some other project." The FEIR correctly identified and analyzed predictable actions that would occur if the Commission did not approve the Project. CEQA does not limit the analysis only to those predictable actions that relate to the "vicinity of the Project." Montebello's asserted "vicinity" requirement has no basis in law.

C. D.17-02-015 Correctly Determined that Alternative 3 is Both Temporally and Economically Infeasible.

From the outset, the CAISO notes that D.17-02-015 determined that Alternative 3 to the Project was both temporally and economically infeasible. The decision notes that "Alternative 3 would result in an approximate 14 month delay with a projected best-case July 31, 2022

⁶ Application, p. 12-13.

⁷ Application, p. 13.

⁸ CEQA Guidelines, Section 15126.6(e)(3)(b).

completion date. Thus, Alternative 3 is infeasible because the GIS design, construction, and electrification cannot be completed prior to the retirement of Los Angeles Basin OTC generation in December 2020.”⁹ Montebello argues that the Commission erred in finding Alternative 3 economically infeasible, but it makes no argument regarding the temporal feasibility of Alternative 3. As a result, regardless of the merit of Montebello’s argument regarding economic infeasibility, the Commission’s feasibility determination will not change.

In any event, Montebello’s argument regarding economic infeasibility is incorrect. In determining economic infeasibility “[u]ltimately the question is ... whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent [person] would not proceed with the [altered project].”¹⁰ In this case, the Commission determined that the \$64-\$75 million difference between the Project and Alternative 3 was sufficient to determine that Alternative 3 was economically infeasible.

Montebello cites *Uphold our Heritage v. Town of Woodside*¹¹ to support its argument that “the fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible.”¹² This case is inapposite. In *Woodside*, “the town rejected two rehabilitation alternatives as infeasible based on their cost—between \$4.9 million and \$10 million—without obtaining *any* evidence about the cost of [the proposed project].”¹³ The courts subsequently clarified that “*Woodside* does not require any particular economic analysis or any particular kind of economic data, but requires generally “some context’ that allows for economic comparison.”¹⁴ In the present case, however, the Commission relied upon uncontroverted, detailed economic analyses of the Projects versus the alternative. These detailed analyses provide more than sufficient context for the Commission compare the Project versus Alternative 3. The Commission made this comparison and correctly found that \$64-\$75 million increase represented by Alternative 3 was economically infeasible.

⁹ D.17-02-015, p. 31.

¹⁰ *SPRAWLDEF v. San Francisco Bay Conservation & Dev. Comm'n*, 226 Cal. App. 4th 905, 918, 172 Cal. Rptr. 3d 110, 119 (2014), as modified (June 25, 2014).

¹¹ 147 Cal. App. 4th 587 (*Woodside*).

¹² Application, p. 17.

¹³ *SPRAWLDEF v. San Francisco Bay Conservation & Dev. Comm'n*, 226 Cal. App. 4th 905, 918, 172 Cal. Rptr. 3d 110, 119. (Emphasis in the original.)

¹⁴ *SPRAWLDEF v. San Francisco Bay Conservation & Dev. Comm'n*, 226 Cal. App. 4th 905, 918, 172 Cal. Rptr. 3d 110, 120.

III. Conclusion

Montebello's Application lacks legal and factual merit. The Commission should reject the Application, reaffirm D.17-02-015 and close the proceeding.

Respectfully submitted,

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